

**Franet National contribution  
to the  
Fundamental Rights Report  
2021**

**{ The Netherlands }**

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discrimination

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# Policy and legal highlights 2020

## The Netherlands

Franet country study: policy and legal highlights 2020	
<b>Issues in the fundamental rights institutional landscape</b>	<b>The Dutch Data Protection Authority (Dutch DPA) lacks resources.</b> In reply to a <a href="#">study</a> by consultancy firm KPMG, the Dutch DPA <a href="#">stated</a> that it must expand considerably the coming years in order to protect citizens and to support organisations. In order to properly perform its statutory tasks, the DPA must grow from 184 full-time staff members to 470 full-time staff members and increases its budget to more than €66 million euros in 2025.
<b>EU Charter of Fundamental Rights</b>	No new developments in 2020.
<b>Equality and non-discrimination</b>	<b>Bill on labour market discrimination.</b> On 3 July 2020, the government adopted the bill ' <a href="#">Supervision of equal opportunities in recruitment and selection</a> '. This bill obliges each employer to implement a working method that indicates how discrimination during the recruitment process will be prevented. Under this bill, the Dutch labour inspectorate will have the authority to impose a fine on an employer when such a working method is not implemented.
<b>Racism, xenophobia &amp; Roma integration</b>	<b>BLM-protests and political response.</b> In June 2020, thousands of people demonstrated against racism under the slogan Black Lives Matter (BLM). As response to these demonstrations, the House of Representatives held a <a href="#">debate</a> on racism on 1 July 2020. During this debate, a <a href="#">motion</a> was adopted by the House which requested the government to establish a State Committee on Discrimination and Racism which will conduct long-term research into the state of racism in the Netherlands, make proposals and monitor the effects of policies.
<b>Asylum &amp; migration</b>	<b>Asylum applicants continue to face long waiting periods.</b> A <a href="#">special task force</a> established to deal with a backlog of 15,350 asylum applications at the end of 2020 has not reached its target. So, at the start of next year, of 8,000 asylum applicants wait for their asylum proceedings to begin.
<b>Data protection</b>	<b>Court rules that the right to privacy prevails over the fight against alleged benefits fraud.</b> On 5 February 2020, the

<b>and digital society</b>	District Court of The Hague <a href="#">ruled</a> on the legality of a data analysing system designed by the Dutch government to identify those most likely to commit benefits fraud. The Court decided that the legislation on which this system is based does not comply with Article 8 of the European Convention on Human Rights (ECHR), which protects the right to respect for private and family life.
<b>Rights of the child</b>	<b>The Netherlands violated child's right to acquire a nationality.</b> On 28 December 2020, the UN Human Rights Committee <a href="#">decided</a> that the Netherlands violated a child's rights by registering "nationality unknown" in his civil records as this left him unable under Dutch law to be registered as stateless and therefore be given international protection as a stateless child.
<b>Access to justice, including victims of crime</b>	<b>All non-consensual sex to be punished as rape.</b> On 5 November 2020, the government decided that it would amend the <a href="#">draft bill</a> on sexual offences: all non-consensual sex will be punished as rape. In the original <a href="#">draft bill</a> , there were two articles: one criminalising non-consensual sex and one criminalising rape.
<b>Convention on the Rights of Persons with Disability</b>	<b>Dutch sign language becomes official language.</b> Dutch Parliament has passed a <a href="#">bill</a> to recognize Dutch Sign Language. The House of Representatives voted for the bill on 22 September. The Senate voted for the bill on 13 October 2020. With this act, Dutch Sign Language ( <i>Nederlandse Gebarentaal</i> ) becomes an official language in the Netherlands, next to Dutch and Frisian.

# Chapter 1. Equality and non-discrimination

## 1. Legal and policy developments or measures relevant to fostering equality and combating discrimination against older people and against LGBTI people.

On 1 January 2020, an Act took effect which amends, among other things, article 137d of the Dutch Criminal Code, which criminalises the incitement of hatred, discrimination or violence towards people or individuals due their race, religion or beliefs, their sex, their hetero- or homosexual orientation or their physical, mental or intellectual disability.<sup>1</sup> The amendment increases the maximum penalty for inciting hatred, discrimination or violence based on a discriminatory motive from one to two years.<sup>2</sup>

An initiative draft bill on hate crimes was open for internet consultation from 29 June 2020 to 25 August 2020.<sup>3</sup> Members of the House of Representatives initiated this draft bill, which introduces a general aggravated ground in article 44bis of the Criminal Code for criminal offenses that are committed stemming from a discriminatory motivation on the grounds of race, religion, sex, sexual orientation and/or disability. When a crime with such motivation is committed, the penalty will be increased by one third.

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<sup>1</sup> The Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2020). 'Herwaardering strafbaarstelling actuele delictsvormen', Web page, available at: [https://www.eerstekamer.nl/wetsvoorstel/35080\\_herwaardering](https://www.eerstekamer.nl/wetsvoorstel/35080_herwaardering)

<sup>2</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2018), Amendment of among other things the Criminal Code in connection with the re-evaluation of punishability of offences of expression [*Wijziging van onder meer het Wetboek van Strafrecht in verband met de herwaardering van de strafbaarstelling van enkele actuele delictsvormen (herwaardering strafbaarstelling actuele delictsvormen)*], Sent to House of Representatives, 16 May 2018, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2018/05/16/wetsvoorstel-en-memorie-van-toelichting-herwaardering-strafbaarstelling-actuele-delictsvormen-consultatieversie/Wetsvoorstel+en+MvT.pdf>

<sup>3</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2020), Bill by Members Buitenweg en Segers amending the Criminal Code in order to introduce discriminatory motivation as a ground of aggravation [*Voorstel van wet van de leden Buitenweg en Segers tot wijziging van het Wetboek van Strafrecht in verband met de invoering van het discriminatoir oogmerk als strafverzwaringsgrond*], available at: <https://www.internetconsultatie.nl/strafbaarstellingleeftijdscriminatie/document/5669>

An initiative draft bill on the criminalisation of age discrimination was open for internet consultation from 3 April 2020 through 29 May 2020.<sup>4</sup> Members of the House of Representatives initiated this draft bill, which aims to enable criminal prosecution of age discrimination in the same way that criminal prosecution is legally possible for discrimination on the grounds of race, sex, religion, sexual orientation and disability, and with the same level of punishment.

On 3 July 2020, the government decided to initiate a bill amending The Working Conditions Act (*Arbo-wet*) and the Act on Allocation of Employees by Intermediaries (*Wet allocatie arbeidskrachten door intermediairs*).<sup>5</sup> The bill carries the title 'Supervision of equal opportunities in recruitment and selection'. This bill mandates that each employer must implement a working method that indicates how discrimination during the recruitment process will be prevented. The explanatory memorandum to the draft bill refers to the following non-discrimination grounds: age, race, gender, religion, marital status, political preferences, sexual orientation and disability.<sup>6</sup> In case an intermediary, such as an employment agency, is involved, the employer must check whether this agency has such a working method. Under the new law, the Inspectorate SZW (labour inspection) will have the authority to check whether employers have a working method. In case the employer fails to implement such a working method, the Inspectorate SZW can impose a fine. Although this bill is no law yet, the Inspectorate SZW has already carried out 240 exploratory inspections in 2019 and 190 exploratory inspections in the first half of 2020. These exploratory inspections are additional to the regular inspections on discrimination in the workplace (270 in 2019 and 210 in the first half of 2020).<sup>7</sup> On 11 December 2020, the government

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<sup>4</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2020), Initiative Bill Criminalisation Age Discrimination [Initiatiefwetsvoorstel Strafbaarstelling Leeftijdscriminatie], available at:

<sup>5</sup> The Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2020), 'Wettelijke plicht voor gelijke kansen bij werving en selectie', News release, 3 July 2020, available at:

<https://www.rijksoverheid.nl/actueel/nieuws/2020/07/03/wettelijke-plicht-voor-gelijke-kansen-bij-werving-en-selectie>

<sup>6</sup> The Netherlands, State Secretary for Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2019), Explanatory Memorandum to. Draft bill on supervision of non-discriminatory recruitment and selection [*Memorie van toelichting. Conceptwetsvoorstel toezicht discriminatievrije werving en selectie*], available at:

[https://www.internetconsultatie.nl/wet\\_toezicht\\_discriminatievrije\\_werving\\_en\\_selectie/document/5008](https://www.internetconsultatie.nl/wet_toezicht_discriminatievrije_werving_en_selectie/document/5008)

<sup>7</sup> The Netherlands, State Secretary of Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2020), 'Kamervraag/vragen van het lid Van Dijk (PvdA) over discriminatie bij solliciteren', Letter to House of Representative', 29 September 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/09/29/antwoordbrief-kamervragen-over-discriminatie-bij-solliciteren/antwoordbrief-kamervragen-van-het-lid-van-dijk-over-discriminatie-bij-solliciteren.pdf>

sent the bill 'Supervision of equal opportunities in recruitment and selection' to the House of Representatives.<sup>8</sup>

A draft bill amending the General Equal Treatment Act (*Algemene wet gelijke behandeling*) and the Criminal Code articles on discrimination (137c-137f) by replacing the term heterosexual or homosexual inclination by the term sexual orientation and by adding the non-discrimination grounds gender identity, gender expression and gender characteristics to articles 137c and 137e of the Criminal Code was open for internet consultation from 29 September 2020 to 30 November 2020.<sup>9</sup>

On 27 October 2020, the Senate (*Eerste Kamer*) passed a motion expressing its ambition to organise a Parliamentary Inquiry into the reasons why anti-discriminatory provisions in legislation are not sufficiently effective and why discrimination persists despite the anti-discrimination legislation.<sup>10</sup>

On 30 November 2020, the Minister for Legal Protection and the Minister of Emancipation offered their apologies, on behalf of the State of the Netherlands, to the Transgender Collective for the old Transgender Act. Under the Transgender Act (*Transgenderwet*), transgender people have been able change their gender designation on their birth certificate since 1985.<sup>11</sup> This was subject to a number of conditions, such as body modification in order to align with the desired gender identity and an irreversible sterilisation procedure. These requirements were abolished with the amendment of the Transgender Act in 2014. The Transgender Collective held the State of the Netherlands liable at the end of 2019. They have

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<sup>8</sup> The Netherlands, State Secretary of Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2020), Bill for Act on Supervision of equal opportunities in recruitment and selection' [Wet toezicht gelijke kansen bij werving en selectie], available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/12/11/wetsvoorstel-toezicht-gelijke-kansen-bij-werving-en-selectie/wetsvoorstel-toezicht-gelijke-kansen-bij-werving-en-selectie.pdf>

<sup>9</sup> The Netherlands, Minister of Justice and Security / Minister of Interior and Kingdom Relations (*Minister of Justitie and Veiligheid / Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2020), Draft bill amending General Equal Treatment Act and the Criminal Code articles concerning the term sexual orientation and the ground gender identity, available at: <https://www.internetconsultatie.nl/awgbseksuelegerichtheid/document/6223>

<sup>10</sup> The Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2020), Motie van de leden Rosenmöller en Jorritsma-Lebbink c.c. 27 October 2020, available at: [https://www.eerstekamer.nl/behandeling/20201027/motie\\_van\\_de\\_leden\\_rosenmoller\\_en/document3/f=/vldbogj8b7ur\\_opgemaakt.pdf](https://www.eerstekamer.nl/behandeling/20201027/motie_van_de_leden_rosenmoller_en/document3/f=/vldbogj8b7ur_opgemaakt.pdf)

<sup>11</sup> The Netherlands, Ministry for Justice and Security (*Ministerie van Justitie en Veiligheid*) (2020), 'Government offers apologies for old Transgender Act', News release, 30 November 2020, available at: <https://www.government.nl/latest/news/2020/11/30/government-offers-apologies-for-old-transgender-act>



demanded acknowledgement, apologies and financial compensation for the suffering caused by the conditions included in the Transgender Act. In response, the government has conveyed its acknowledgement and apologies to the collective. A voluntary financial compensation scheme will also be made available.

## **2. Findings and methodology of research, studies or surveys on experiences of discrimination against older people and against LGBTI people.**

On 4 April 2020, the Netherlands Institute for Social Research (*Sociaal en Cultureel Planbureau*) published the second edition of its survey on the nature and size of perceived discrimination in the Netherlands.<sup>12</sup> In this edition, perceived discrimination was measured using a survey in which respondents were asked for their experiences with discrimination in various domains during the past 12 months. Between April and June 2018, a random sample of 35,727 members of the Dutch population aged 15 years and older were approached and asked to participate in the study. Netherlands Statistics compiled the random sample. This resulted in 8,536 valid respondents. This is equivalent to a response rate of 24.

The study shows that 27% of the inhabitants of the Netherlands experienced one or more incidents in 2018 that they perceived as discrimination.<sup>13</sup> LGB people perceive more discrimination than heterosexual individuals do: 37% of LGB persons experience discrimination against 25% of heterosexual persons. Heterosexual individuals hardly feel discriminated against on the ground of sexual orientation (0.5%), while this is a very important ground for discrimination for LGB persons: 22% of the LGB persons with an experience of discrimination relate

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<sup>12</sup> Andriessen, I., Hoegen Dijkhof, J.L., Van der Torre, A., Van den Berg, E., Pulles, I., Iedema, J. and De Voogd-Hamelink, M. (2020), Perceived discrimination in the Netherlands II [*Ervaren discriminatie in Nederland II*], Den Haag, Sociaal en Cultureel Planbureau, available at: <https://www.scp.nl/binaries/scp/documenten/publicaties/2020/04/02/ervaren-discriminatie-in-nederland-ii/Ervaren+discriminatie+in+Nederland+II.pdf>

<sup>13</sup> Andriessen, I., Hoegen Dijkhof, J.L., Van der Torre, A., Van den Berg, E., Pulles, I., Iedema, J. and De Voogd-Hamelink, M. (2020), Perceived discrimination in the Netherlands II [*Ervaren discriminatie in Nederland II*], Den Haag, Sociaal en Cultureel Planbureau, available at: <https://www.scp.nl/binaries/scp/documenten/publicaties/2020/04/02/ervaren-discriminatie-in-nederland-ii/Ervaren+discriminatie+in+Nederland+II.pdf>

this to their sexual orientation. Opposed to their heterosexual peers, LGB people often experience more discrimination through negative treatment and/or through sexual harassment.

The study shows that 9% of the inhabitants of the Netherlands experienced age discrimination in 2018. 25% of the inhabitants of the Netherlands who perceived one or more discrimination incidents in 2018 experienced age discrimination. The results also show that age discrimination, among those who experienced it in 2018, is distributed as following: 29% aged 15-24, 19% aged 25-34, 19% aged 35-44, 27% aged 45-54, 42% aged 55-64 and 34% among people 65 years of age or older.

Researchers of the VU (*Vrije Universiteit*) Amsterdam carried out a study on the extent of age discrimination in vacancy texts.<sup>14</sup> This study was a repetition of an earlier study conducted in 2017. In this new study, almost all Dutch-language vacancy texts published on the internet in 2019 were analysed. This involves more than 3.1 million unique texts. In order to compare them with the prior study all Dutch-language vacancy texts published on the internet in 2017 were analysed again (1.8 million texts). Altogether, these texts were put in a database. A special algorithm was developed to detect word combinations, which identifies the prohibited word combinations as specified in the lists of prohibited direct and indirect word combinations. The algorithm uses so-called regular expressions to identify sequences of characters. Two versions of the algorithm are used. The strict version of the algorithm finds cases where the prohibited expressions detected occur without interruption. In addition, a more flexible version is used. This flexible version identifies the same direct and indirect discriminatory forbidden expressions as the strict version; however, it includes also expressions that are interrupted by other words. The study conducted in 2019 revealed a number of 2,940 texts containing phrases indicating direct age discrimination using the strict algorithm (0.09% of all vacancy texts). Using the flexible algorithm, the study found 7,542 vacancy texts indicating direct age discrimination (0.24% of all vacancy texts. For the year 2017, these figures are respectively: 2,733 (0.15%) and 6,259 (0.35%). The same study (2019) shows that 69,968 texts contain phrases indicating indirect age discrimination using the strict algorithm (2.21% of all vacancy texts). Using the flexible algorithm, the study found 99,462 texts indicating direct age discrimination (3.14% of all

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<sup>14</sup> Fokkens, A. & Beukeboom, C.J. (2020), Age discrimination in vacancy texts: A repeat of an automated content analysis by illegal age-related language use in vacancy texts. [*Leeftijdscriminatie in vacatureteksten : Een herhaalde geautomatiseerde inhoudsanalyse naar verboden leeftijd-gerelateerd taalgebruik in vacatureteksten uit 2017 en 2019*], Amsterdam, Vrije Universiteit Amsterdam - afdeling Communicatiewetenschap, available at: <https://publicaties.mensenrechten.nl/file/d0530ac3-7ccd-4a85-8049-5f8f016479c6.pdf>

vacancy texts). For the prior study (2017) goes that these figures are respectively: 42,596 (2.40%) and 60,893 (3.43%).

Researchers of the University of Utrecht (UU) and the University of Amsterdam (UvA) published a paper analysing old-age discrimination in managers' hypothetical hiring decisions.<sup>15</sup> The authors expect that older applicants are less likely to be hired than equally qualified younger applicants are. Statistical discrimination theory argues that, when recruiters have more information about the candidate's skills, age is a less important factor for hiring decisions. Given inconclusive results of previous studies, the authors elaborate on the theory by focusing on the content rather than the amount of information. They argue that information is primarily influential if it debunks, rather than confirms, ageist stereotypes. To test this argument, a factorial survey was conducted using data on 482 managers in nine European countries (Bulgaria, Finland, Germany, Hungary, Netherlands, Portugal, Spain, Sweden, the United Kingdom and the Netherlands) collected as part of the European Sustainable Workforce Survey in 2015–2016. The findings show that older applicants indeed receive lower hireability scores, and this result is robust across countries and sectors. However, the authors did not find that stereotype-rejecting information moderates age discrimination: it does not matter whether recruiters have information that debunks or confirms ageist stereotypes; age is equally important in both situations. The findings suggest that, for hiring decisions, the assessment of applicants' skills and their age are largely independent.

In 2019, a study was published compiling all discrimination-incidents in the Netherlands as registered by the Dutch police and by the Dutch antidiscrimination services.<sup>16</sup> This study compares the year 2019 with the year 2018. The police registered 5,487 discrimination-incidents (including incidents against police officers). 39% of these incidents related to racism, 27% of these incidents related to sexual orientation, 14% related to antisemitism (considered a separate category in this study because it relates to both race and religion), 5% related to religion, 1% of these incidents related to disability. In 2018, the police registered 4,674 discrimination-incidents (including incidents against police-officers) 37% of

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<sup>15</sup> Lössbroek, J., Lancee, B., Van der Lippe, T. en Schippers, J. (2020), 'Age Discrimination in Hiring Decisions: A Factorial Survey among Managers in Nine European Countries', *European Sociological Review*, jcaa030. Published: 02 September 2020, available at: <https://doi.org/10.1093/esr/jcaa030>

<sup>16</sup> Walz, G., Van Bon, S. and Fiere, B. (2020), *Discrimination figures in 2019 : A report on registrations of reports of discrimination in the Netherlands by the police, antidiscrimination bureaus and other organisations [Discriminatiecijfers in 2019 : Een rapport over registraties van meldingen van discriminatie-incidenten door de politie, en meldingen bij antidiscriminatievoorzieningen en andere organisaties in Nederland]*, Rotterdam / Den Haag, Art.1 / Nationale Politie, available at: <https://discriminatie.nl/files/2020-04/Discriminatiecijfers%20in%202019.pdf>

these incidents related to racism, 32% of these incidents related to sexual orientation, 13% related to antisemitism, 1% related to religion, 1% of these incidents related to disability. The area of life on which the police registered most discrimination-incidents is the neighbourhood (32% in 2018).

Dutch antidiscrimination services registered 4,382 discrimination-incidents in 2019. 44% of these incidents related to racism, 14% of these incidents related to disability, 7% of these incidents related to age, 6% of these incidents related to religion and 9% of these incidents related to sexual orientation. In 2018, Dutch antidiscrimination services registered 4,320 discrimination incidents. 45% of these incidents related to racism, 14% of these incidents related to disability, 8% of these incidents related to age, 7% of these incidents related to religion and 4% of these incidents related to sexual orientation. The domain labour market makes up the largest part of discrimination-incidents registrations by the Dutch antidiscrimination services (28% in 2018 and 26% in 2019).

The Netherlands Working Conditions Survey (*Nationale Enquête Arbeidsomstandigheden*) provides information on working conditions, employability, and health. Through a large and representative sample (n=58.000) of Dutch employees, the survey periodically collects information. The 2019 edition of this survey included a question about whether employees experienced discrimination at work over the past 12 months.<sup>17</sup> 92.4% of the respondents state they had not experienced discrimination at work on personal level. 1.3% state they had been discriminated based on their gender, 1.4% based on skin colour, 0.8% based on religion, 0.4% based on their sexual orientation, 2.2% based on age, 3% based on other grounds.

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<sup>17</sup> Hooftman, W. et al (2020), Netherlands Working Conditions Survey : method and overall results [*Nationale Enquête Arbeidsomstandigheden 2019 : Methodologie en globale resultaten*], Leiden / The Hague, TNO / Netherlands Statistics, available at: <https://www.cbs.nl/-/media/pdf/2018/16/nea2017%20methodologisch%20rapport.pdf>

## Chapter 2. Racism, xenophobia and related intolerance

### 1. Legal and policy developments relating to the application of the Racial Equality Directive

On 8 February 2020, the KNVB (the Dutch Football Association) and the national government launched a policy plan to tackle discrimination and racism in Dutch football throughout the period 2020-2022.<sup>18</sup> On 8 February 2020, the Minister for Sports sent by letter the plan to the House of Representatives.<sup>19</sup> The plan consists of more than 20 measures and interventions that will be implemented by the KNVB

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<sup>18</sup> The Netherlands, KNVB (2020), Our football belongs to everyone: Together we sideline discrimination

[*Ons voetbal is van iedereen: Samen zetten we discriminatie buitenspel*], Zeist, KNVB, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/02/08/ons-voetbal-is-van-iedereen-samen-zetten-we-discriminatie-buitenspel/Rapport+Ons+voetbal+is+van+iedereen.pdf>

<sup>19</sup> The Netherlands, Minister for Medical and Sport (*Minister voor medische Zorg en Sport*) (2020), 'Ons voetbal is van iedereen, Samen zetten we discriminatie buitenspel', Letter to House of Representatives, 8 February 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/02/08/kamerbrief-bij-rapport-ons-voetbal-is-van-iedereen-samen-zetten-we-discriminatie-buitenspel/Kamerbrief+Ons+voetbal+is+van+iedereen,+Samen+zetten+we+discriminatie+buitenspel.pdf>

and the authorities in the period 2020-2022. Over €14 million will be invested in this plan by the national government and the KNVB. This proposed plan contains three types of measures: measures aimed to prevent racism, measures aimed to identify racist behaviour and measures aimed to punish racist behaviour.

On 26 February 2020, a civil society coalition summoned the Dutch state to appear in court for ethnic profiling by the Royal Netherlands Marechaussee (*Koninklijke Marechaussee*), which acts as the border police in the Netherlands.<sup>20</sup> The plaintiffs include two private citizens, Amnesty International, Controle Alt Delete, anti-discrimination organisation RADAR and the Public Interest Litigation Project, part of the Dutch section of the International Commission of Jurists (PILP-NJCM). The plaintiffs demand that the court draws a line and puts an end to discriminatory border control activities. They argue that the Dutch border police acts in violation of human rights and the Dutch law. In recent years, the plaintiffs have put this problem on the agenda and insisted to take measures in order to fight ethnic profiling; all these efforts have been in vain. Therefore, the plaintiffs are taking this case to court. During border control operations, the border police selects people based on their appearance, skin colour or origin (ethnic background), among other things. This determines, in part, whether someone is removed from the queue. The Dutch border police also handle general risk profiles that incorporate ethnicity, such as men "who walk fast, are well-dressed and who don't 'look Dutch'".

On 25 February 2020, a report on how Amsterdam citizens experience their contacts with police officers was published. Data were collected through interviews (n=750) with people at public places in Amsterdam.<sup>21</sup> In order to assure representation of Amsterdam people, 25 outdoor locations were selected. At each location, 30 street interviews were held. 255 of the respondents had contact with police officers in 2019. 48% of these 255 respondents argue that the reason police officers addressed them is due their ethnic origin, skin colour or appearance. The changes implemented by the Amsterdam police to prevent ethnic profiling were noticed by 12% of all respondents opposed to 45% of the respondent who noticed no change. The remaining respondents (43%) did not know about any changes or refused to give an answer. This study serves as the baseline

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<sup>20</sup> Public Interest Litigation Project (2020), 'Dutch border police in court for ethnic profiling', News release, 12 June 2018, available at: <https://pilpnjcm.nl/en/dutch-border-police-in-court-for-ethnic-profiling/>

<sup>21</sup> Kuppens, J. and Ferwerda, H. (2020), The experiences and opinions of citizens concerning the police, baseline measurement : Street interviews with Amsterdam citizens on police action and ethnic profiling [*Ervaringen en meningen van burgers met de politie, nulmeting : Straatgesprekken met Amsterdamse burgers over politieoptreden en etnisch profileren*], Arnhem, Bureau Beke, available at: <https://amsterdam.raadsinformatie.nl/document/8919620/1#search=%22bureau%20beke%22>

fundamental report, as it is considered the principle by which the municipality of Amsterdam assesses the implementation of its approach to prevent ethnic profiling by the police.

On 28 November 2020, news programme "RTL Nieuws" announced, using the Freedom of Information Act (*Wet Openbaarheid Bestuur*), that, in the first nine months of 2020, 68 complaints were filed by citizens in regards to discrimination and/or ethnic profiling by police officers.<sup>22</sup> In 2019, 135 complaints were filed. In the period 2016-2019, 480 complaints were filed. Of these 470 complaints, a complaints committee of the police handled 70. Of the 70 discrimination cases dealt with by complaint's committee of the police from 2016 to 2019, this committee upheld only two.

Numerous demonstrations were held in the Netherlands as part of the worldwide protests under the slogan Black Lives Matter (BLM). The first took place in Amsterdam on 1 June 2020. After that, there were demonstrations in various places in the Netherlands including Rotterdam, The Hague, Utrecht, Groningen, Eindhoven, Nijmegen, Arnhem, Deventer, Almere, Leeuwarden, Emmen, Maastricht, Den Bosch, Tilburg, Middelburg, and Diemen. An opinion poll of the television programme 'EenVandaag' revealed that the demonstrations against racism could count on a great deal of understanding among the white Dutch population.<sup>23</sup> A majority of those questioned (63%) think it is a good thing that people are demonstrating under BLM. However, for most people (62%) the protests do not stimulate more awareness. A considerable minority (40%) claims to have changed their behaviour in some way right after the protests. Exactly a fifth (20%), for example, states that they had been thinking, reading and talking to their close community about racism. As a response to these demonstrations, the House of Representatives (*Tweede Kamer*), the Minister of Justice and Security and the Minister of Interior held a debate on racism on 1 July 2020.<sup>24</sup> During this debate, the House of Representatives passed a motion, which requests the government to establish a State Committee on Discrimination and Racism that will conduct long-term research into the state of racism in the Netherlands, submit

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<sup>22</sup> RTL Nieuws (2020), 'Meer klachten over racistisch optreden agenten, politie erkent zelden schuld', News release, 28 November 2020, available at: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5199369/politie-discriminatie-klachten-racisme-etnisch-profileren>

<sup>23</sup> Kester, J. (2020), Onderzoek: Racisme in Nederland. EenVandaag Opiniepanel Rapport, 15 juni 2020, available at: [https://eenvandaag.assets.avrotros.nl/user\\_upload/PDF/Onderzoek\\_racisme\\_in\\_NL.pdf](https://eenvandaag.assets.avrotros.nl/user_upload/PDF/Onderzoek_racisme_in_NL.pdf)

<sup>24</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*), 'Institutioneel racisme in Nederland', Debate held on 1 July 2020, available at: <https://www.tweedekamer.nl/downloads/document?id=beadf0f6-1851-4076-8d16-b18ae5f58369&title=Institutioneel%20racisme%20in%20Nederland.pdf>

proposals and monitor the effects of policies.<sup>25</sup> On 9 December 2020, the Minister of Interior and Kingdom Relations sent a letter to the House of Representatives in which she announced that such a State Committee would be established in 2021.<sup>26</sup> In the same letter, she announced that an explorative study on how to develop and organise a special coordination mechanism in the fights against racism and discrimination would be sent to parliament in spring 2021.

On 13 December 2020, the Minister of Justice and Security announced that the Netherlands would have a national coordinator to tackle anti-Semitism, and to strengthen the official approach towards dealing with threats, discrimination and intimidation.<sup>27</sup> For the duration of one year, the coordinator's primary task will be advising the government on how to deal with anti-Semitism from a legal perspective and on how to ensure the safety of the Netherlands' Jewish community.

On 17 June 2020, the Dutch Data Protection Authority published a report, which concludes that the Dutch Tax and Customs Administration (*Belastingdienst*) discriminated against parents with a dual nationality when they applied for childcare allowance.<sup>28</sup> The Tax and Customs Administration should have removed dual citizenship registration from their database in 2014. Yet, in May 2018, over 1.4 million people were still registered this way in the system - affecting their chances of getting an allowance. Ethnic minorities in the Netherlands more often tend to have a dual nationality compared to the rest of the population. As such, discrimination in relation to nationality may indirectly lead to ethnic or racial discrimination.

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<sup>25</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*), Motie van de leden Asscher en Peter Heerma, Parliamentary document, 30 950, Nr. 186, available at: <https://www.tweedekamer.nl/downloads/document?id=a57b4c2c-b020-461c-81a3-e75783cd7f4&title=Motie%20van%20de%20leden%20Asscher%20en%20Pieter%20Heerma%20over%20een%20Staatscommissie%20Discriminatie%20en%20Racisme.pdf>

<sup>26</sup> The Netherlands, Minister of Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2020), 'Uitvoering moties Nationaal coordinator- en Staatscommissie discriminatie en racisme', Letter to House of Representatives, 9 December 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/12/09/kamerbrief-over-uitvoering-moties-nationaal-coordinator-en-staatscommissie-discriminatie-en-racisme/uitvoering-moties-nationaal-coordinator-en-staatscommissie-discriminatie-en-racisme.pdf>

<sup>27</sup> The Netherlands, Ministry of Justice and Security (Ministerie van Justitie en Veiligheid) (2020), 'Nationaal Coördinator Antisemitismebestrijding in 2021 van start', News release, 13 September 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/12/13/nationaal-coordinator-antisemitismebestrijding-in-2021-van-start>

<sup>28</sup> The Netherlands Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), The processing of the nationality of the applicants of childcare allowance. Report z2018-22445 [*De verwerking van de nationaliteit van aanvragers van kinderopvangtoeslag. Onderzoeksrapport z2018-22445*], available at: [https://www.autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/onderzoek\\_belastingdienst\\_kinderopvangtoeslag.pdf](https://www.autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/onderzoek_belastingdienst_kinderopvangtoeslag.pdf)



On 2 July 2020, the report by the UN's Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on her visit to the Netherlands from 30 September until 7 October 2019, meeting government officials, was published.<sup>29</sup> In her report, she points out a paradox in the Netherlands. The Special Rapporteur "believes that the Government remains committed to equality and non-discrimination and to an inclusive vision for national identity and for the country more broadly. Yet, the insistence that the Netherlands has already achieved its ambitious vision for equality and inclusiveness poses a very real danger, one that undermines the very difficult work required transforming commitments into reality. The paradox in the Netherlands is that, where it exists, the insistence on already having achieved equality and tolerance operates as a barrier to achieving equality and tolerance in fact: such insistence severely hampers efforts to mobilize resources and the action necessary to ensure equality, non-discrimination and inclusion for all."

On 3 July 2020, the government decided to initiate a bill amending The Working Conditions Act (*Arbo-wet*) and the Act on Allocation of Employees by Intermediaries (*Wet allocatie arbeidskrachten door intermediairs*).<sup>30</sup> The bill carries the title 'Supervision of equal opportunities in recruitment and selection'. This bill mandates that each employer must implement a working method that indicates how discrimination during the recruitment process will be prevented. The explanatory memorandum to the draft bill refers to the following discrimination grounds: 'race', age, sex, religion, marital status, political preferences, sexual orientation and disability.<sup>31</sup> It does not give reference to the Racial Equality Directive. In case an intermediary, such as an employment agency, is involved, the employer must check whether this agency has such a working method. The Inspectorate SZW (labour inspection) has the authority to check whether employers have a working method and to impose a fine on the employer if they have failed to implement such a working method. Despite this bill is not an official

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<sup>29</sup> United Nations, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2020), *Visit to the Netherlands. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Advance Edited Version*. 2 July 2020, Genève, Office of the High Commissioner for Human Rights, available at: [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A\\_HRC\\_44\\_57\\_Add2\\_AdvanceEditedVersion.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A_HRC_44_57_Add2_AdvanceEditedVersion.docx)

<sup>30</sup> The Netherlands, Ministry of Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2020), 'Wettelijke plicht voor gelijke kansen bij werving en selectie', News release, 3 July 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/07/03/wettelijke-plicht-voor-gelijke-kansen-bij-werving-en-selectie>

<sup>31</sup> The Netherlands, State Secretary for Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2019), Explanatory Memorandum to. Draft bill on supervision of non-discriminatory recruitment and selection [*Memorie van toelichting. Conceptwetsvoorstel toezicht discriminatievrije werving en selectie*], available at: [https://www.internetconsultatie.nl/wet\\_toezicht\\_discriminatievrije\\_werving\\_en\\_selectie/document/5008](https://www.internetconsultatie.nl/wet_toezicht_discriminatievrije_werving_en_selectie/document/5008)

law yet, the Inspectorate SZW has already carried out 240 exploratory inspections in 2019 and 190 exploratory inspections in the first half of 2020. These exploratory inspections are complementary to the regular inspections on discrimination in the workplace (270 in 2019 and 210 in the first half of 2020).<sup>32</sup> There is no information available on the results of these explorative inspections. On 11 December 2020, the government sent the bill 'Supervision of equal opportunities in recruitment and selection' to the House of Representatives.<sup>33</sup>

## **2. Legal and policy developments relating to the application of the Framework Decision on Racism and Xenophobia relevant in combating hate speech and hate crime**

On 16 March 2020, a study on the special needs of hate crime victims conducted by scholars of Maastricht University was published.<sup>34</sup> The Ministry for Justice and Security commissioned the study. The study's method is a systematic literature review of foreign studies on the impact of hate crime and/or the needs of victims of hate crime with regard to criminal proceedings, interviews with representatives of Dutch organisations, and a comparative study on the situation in other EU Member States. The study points out that, in the Netherlands, the concept of hate crime has not been incorporated as such into the Criminal Code, nor is the term hate crime used in criminal justice practice. The Public Prosecution Services recognises, in its Guidelines on Discrimination (*Aanwijzing Discriminate*), generic offences with a discriminatory motivation or aspect, as long as this aspect corresponds with one of the following discriminatory grounds: race, religion, disability, sexual orientation and/or gender identity. The only part of this study that considers the situation in the Netherlands is the part based on the interviews with the representatives of Dutch organisations. Because of the relatively limited

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<sup>32</sup> The Netherlands, State Secretary of Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2020), 'Kamervraag/vragen van het lid Van Dijk (PvdA) over discriminatie bij solliciteren', Letter to House of Representative', 29 September 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/09/29/antwoordbrief-kamervragen-over-discriminatie-bij-solliciteren/antwoordbrief-kamervragen-van-het-lid-van-dijk-over-discriminatie-bij-solliciteren.pdf>

<sup>33</sup> The Netherlands, State Secretary of Social Affairs and Employment (*Staatssecretaris van Sociale Zaken en Werkgelegenheid*) (2020), Bill for Act on Supervision of equal opportunities in recruitment and selection' [Wet toezicht gelijke kansen bij werving en selectie], available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/12/11/wetsvoorstel-toezicht-gelijke-kansen-bij-werving-en-selectie/wetsvoorstel-toezicht-gelijke-kansen-bij-werving-en-selectie.pdf>

<sup>34</sup> Aa, S. van der, Claessen, J.F.M. and Hofmann, R. (2020), Special needs of victims of hate crime in criminal proceedings and in victim support [*Speciale behoeften van slachtoffers van hate crime ten aanzien van het strafproces en de slachtofferhulp*], Maastricht, Maastricht University, available at: [https://repository.tudelft.nl/assets/uuid:449a5af3-e1ad-4af1-8aa6-2e6f4b31ab64/2922\\_volledige\\_tekst\\_tcm28-431295.pdf](https://repository.tudelft.nl/assets/uuid:449a5af3-e1ad-4af1-8aa6-2e6f4b31ab64/2922_volledige_tekst_tcm28-431295.pdf)

number of interviews, the results of this part of the research are of an explorative nature. According to the interviewees, the reporting rates of hate crimes are low (compared to other crimes) and this is caused by a normalisation of the phenomenon, by (stories about) a lack of proper treatment by the police, by a lack of recognition and acknowledgement of the discriminatory aspect, and by the perception that filing a report is useless, since it does not contribute to special and general prevention. Several interviewees observe that the discriminatory aspect disappears along the way in the criminal proceedings, either because it is hard to prove, or because the police, public prosecutor, or judge do not take it sufficiently into account. This study makes a number of recommendations. In a letter to the House of Representatives, the Minister for Legal Protection considered these recommendations.<sup>35</sup> The investigators indicate that training for police officers is needed to treat the victims of hate crimes properly and to recognise the discrimination aspect. They also indicate that it is necessary to avoid creating false expectations on the part of the victim, which may be linked to the possible lack of proof of the discrimination aspect. The Minister for Legal Protection indicates in his letter that all police officers who handle reports receive training on victim rights and how to manage the expectations of victims and that discrimination is part of the curriculum in the training of all police officers. The investigators indicate that there should be more attention to the difference between registering the incident as a notification versus an official report. In the case of a notification, the notified only wants to inform the police of an incident, whereas in the case of reporting a crime, the person concerned (implicitly) asks for prosecution. Several interest groups have complained about the fact that victims intended to report hate crime, whereas the incident was only registered as a notification. The Minister indicates that in the present Guidelines on Discrimination (*Aanwijzing Discriminatie*) of the Public Prosecution Services the police have been instructed to register all discrimination incidents as an official report. The investigators indicate that many victims do not understand the legal jargon. The Minister indicates that the standard letters for victims used by the police are written in language comprehensible to 80% of the population.

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<sup>35</sup> The Netherlands, Minister for Legal Protection (*Minister van Rechtsbescherming*) (2020), "Beleidsreactie op het onderzoek "Speciale behoeften van slachtoffers van hate crime tav het strafproces en de slachtofferhulp"", Letter to House of Representatives, 16 March 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/03/16/tk-beleidsreactie-op-het-onderzoek-speciale-behoeften-van-slachtoffers-van-hate-crime-tav-het-strafproces-en-de-slachtofferhulp/tk-beleidsreactie-op-het-onderzoek-speciale-behoeften-van-slachtoffers-van-hate-crime-tav-het-strafproces-en-de-slachtofferhulp.pdf>

An initiative draft bill on hate crimes was open for internet consultation from 29 June 2020 to 25 August 2020.<sup>36</sup> Members of the House of Representatives initiated this draft bill which introduces a general aggravated ground in article 44bis of the Criminal Code for criminal offenses that are committed with a discriminatory motivation on the grounds of 'race', religion, gender, sex, sexual orientation and disability. When a crime is committed with a discriminatory motivation the penalty will be increased by one third.

On 4 April 2020, the Netherlands Institute for Social Research (*Sociaal en Cultureel Planbureau*) published the second edition of its survey regarding the nature and size of perceived discrimination in the Netherlands.<sup>37</sup> In this edition, perceived discrimination was measured using a structured questionnaire (either online or on paper). Respondents were asked for their experiences of discrimination in various domains during the past 12 months. Between April and June 2018, a random sample of 35,727 members of the Dutch population aged 15 years and older were approached and asked to participate in this study. Netherlands Statistics compiled the random sample. This resulted in 8,536 valid respondents. This is equivalent to a response rate of 24. The study shows that 27% of Dutch inhabitants, according to themselves, experienced one or more discrimination incidents in 2018.<sup>38</sup> This study shows that 5% of Dutch inhabitants experienced discrimination because of their skin colour, 8%, their ethnic background and 4% because of their religion. These percentages are much higher among people with a migration background. Among people from Turkish descent, 56% experienced discrimination because of their ethnic background, skin colour and/or religion. Among people from Moroccan descent, 60% experienced discrimination on the same grounds. Among people from Surinamese descent, the percentage 49% is for the same grounds of discrimination. Among people with Antillean background, 49% experienced discrimination because of their ethnic background, skin colour or religion. Of the people who have no migration (that is

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<sup>36</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2020), Bill by Members Buitenweg en Segers amending the Criminal Code in order to introduce discriminatory motivation as a ground of aggravation [*Voorstel van wet van de leden Buitenweg en Segers tot wijziging van het Wetboek van Strafrecht in verband met de invoering van het discriminatoir oogmerk als strafverzwaringsgrond*], available at:

<https://www.internetconsultatie.nl/hatecrimes/document/5966>

<sup>37</sup> Andriessen, I., Hoegen Dijkhof, J.L., Van der Torre, A., Van den Berg, E., Pulles, I., Iedema, J. and De Voogd-Hamelink, M. (2020), Perceived discrimination in the Netherlands II [*Ervaren discriminatie in Nederland II*], Den Haag, Sociaal en Cultureel Planbureau, available at:

<https://www.scp.nl/binaries/scp/documenten/publicaties/2020/04/02/ervaren-discriminatie-in-nederland-ii/Ervaren+discriminatie+in+Nederland+II.pdf>

<sup>38</sup> Andriessen, I., Hoegen Dijkhof, J.L., Van der Torre, A., Van den Berg, E., Pulles, I., Iedema, J. and De Voogd-Hamelink, M. (2020), Perceived discrimination in the Netherlands II [*Ervaren discriminatie in Nederland II*], Den Haag, Sociaal en Cultureel Planbureau, available at:

<https://www.scp.nl/binaries/scp/documenten/publicaties/2020/04/02/ervaren-discriminatie-in-nederland-ii/Ervaren+discriminatie+in+Nederland+II.pdf>

native Dutch white) background, 3% experienced discrimination because of their ethnic background, skin colour or religion.

The COVID-19 pandemic had an impact on people with an Asian background. On 13 February 2020, the television programme 'EenVandaag' published the results of a survey among 300 Dutch people with a Chinese background.<sup>39</sup> Half (49 percent) of the respondents in this survey indicated that they have experienced racism since the outbreak of the coronavirus. In addition, more than one in five (21 percent) have recently experienced it on a weekly or even daily basis. For more information on the impact of COVID-19 on ethnic minorities in the Netherlands, we refer to earlier reports.<sup>40</sup>

On 21 September 2020, the Report Islamophobia Foundation (*Stichting Meld Islamofobie*) published a report<sup>41</sup> compiling the experiences of Muslim women since the Act on a limited ban for face-covering clothing (*Wet gedeeltelijk verbod gezichtsbedekkende kleding*) took effect on 1 August 2019.<sup>42</sup> The Act bans wearing "face-coverings" including burqas and niqabs worn by some Muslim women, but also ski masks and full-face helmets in some public settings like schools, hospitals, or on public transport.<sup>43</sup> Any person who violates the ban faces a fine of €150. The report is based on the experiences of more than 50 Muslim women. The study concludes that all Muslim women, whether they wear a headscarf that also covers the face or not, report that they have increasingly become the target of islamophobia since the introduction of the ban. Muslim women wearing burqas or niqabs frequently experience discrimination in locations where the ban does not apply, such as in playgrounds, commercial establishments

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<sup>39</sup> The Netherlands, Avrotros (2020), "Stinkchinees! Dit is wat Chinese Nederlanders naar hun hoofd geslingerd krijgen sinds het uitbreken van het coronavirus, EenVandaag", 13 February 2020, available at:

<https://eenvandaag.avrotros.nl/panels/opiniepanel/alle-uitslagen/item/stinkchinees-dit-is-wat-chinese-nederlands-naar-hun-hoofd-geslingerd-krijgen-sinds-het-uitbreken/>

<sup>40</sup> For more information on the impact of COVID-19 on ethnic minorities in the Netherlands please see page 9-11 of the [Franet country study](#) released on 8 April 2020, and page 10 of the [Franet country study](#) released on page 10 released on 26 June 2020.

<sup>41</sup> Abaâziz, I. (2020), *Zwartboek Boerkaverbod, Meld Islamofobie*, available at:

[https://www.meldislamofobie.org/app/uploads/2020/09/Zwartboek\\_boerkaverbod\\_def\\_21092020-1.pdf](https://www.meldislamofobie.org/app/uploads/2020/09/Zwartboek_boerkaverbod_def_21092020-1.pdf)

<sup>42</sup> The Netherlands, Bulletin of Acts, Orders and Decrees of the Kingdom of the Netherlands (*Staatsblad van het Koninkrijk der Nederlanden*) (2019), 'Besluit van 10 april 2019, houdende vaststelling van het tijdstip van inwerkingtreding van de Wet gedeeltelijk verbod gezichtsbedekkende kleding', Vol. 2019, No. 165, available at:

<https://zoek.officielebekendmakingen.nl/stb-2019-165.html>

<sup>43</sup> The Netherlands, Minister of Justice and Security / Minister of Interior and Kingdom Relations (*Minister of Justitie and Veiligheid / Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2018), Act on a limited ban for face-covering clothing [*Wet gedeeltelijk verbod gezichtsbedekkende kleding*], available at:

[https://www.eerstekamer.nl/behandeling/20180717/publicatie\\_wet/document3/f=/vkq3cqjhz7.pdf](https://www.eerstekamer.nl/behandeling/20180717/publicatie_wet/document3/f=/vkq3cqjhz7.pdf)

and on the street. Law enforcers are often unaware of the content of the law and cannot be relied upon by Muslim women when it is wrongfully applied. On 21 October 2020, the daily newspaper 'De Volkskrant' reported that 14 months since Act on a limited ban for face-covering clothing (*Wet gedeeltelijk verbod gezichtsbedekkende kleding*) just four women have been warned for wearing a niqab and no-one has been fined.<sup>44</sup> The warnings took place in a train, on a bus, in a town hall and in a hospital. The 'De Volkskrant' bases its report on figures of the police it obtained by using the Dutch Freedom of Information Act (*Wet openbaarheid van bestuur*).

## Chapter 3. Roma equality and inclusion

### 1. Measures and developments addressing Roma, Sinti and Travellers

#### Housing developments

Since 2018, the new national policy framework on mobile homes, pitches and campsites is in force in the Netherlands. According to the needs of Sinti, Roma and Travellers in the Netherlands and to human rights standards, local authorities (municipalities and housing corporations) may implement the guidelines, developed by the Ministry of the Interior and Kingdom Relations, to improve their housing situation.<sup>45</sup> For decades, this complex policy domain suffered a lack of

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<sup>44</sup> Al Ali, W. (2020), 'Jaar na 'boerkaverbod' nog geen boetes uitgedeeld, wel vier waarschuwingen', *De Volkskrant*, 21 October 2020, available at: <https://www.volkskrant.nl/nieuws-achtergrond/jaar-na-boerkaverbod-nog-geen-boetes-uitgedeeld-wel-vier-waarschuwingen~bfb581b50/>

<sup>45</sup> The Netherlands, Ministry of Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2018), *Beleidskader gemeentelijk woonwagen- en standplaatsenbeleid*,

(local) political will to take account of sufficient supply, maintenance and planning of pitches and campsites in line with existing and future needs among Sinti, Roma and Travellers alike.<sup>46</sup> A national survey (2020) among 208 municipalities conducted out by journalists, showed that, after two years, the implementation of the new policy framework still lacks progress among local agencies.<sup>47</sup> The results of this survey were exposed by all relevant media, mainstream, national and regional broadcasting as well as specific professional media.<sup>48</sup> A minority (46%) of the surveyed municipalities is currently developing or implementing policies to tackle the existing problems according to standards set by the Ministry of the Interior and Kingdom Relations.

On the one hand, 2020 shows a few positive local examples of complying with the policy framework, for instance in terms of new campsites delivery<sup>49</sup> or needs-assessments for the long term.<sup>50</sup> On the other hand, ongoing local protests are illustrative for a lack of progress as well as for the growing impatience among the communities concerned.<sup>51</sup>

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available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2018/07/02/beleidskader-gemeentelijk-woonwag-en-standplaatsenbeleid/beleidskader-gemeentelijk-woonwag-en-standplaatsenbeleid.pdf>

<sup>46</sup> The Netherlands, National Ombudsman (*Nationale Ombudsman*) (2018), 'Nationale ombudsman: nog steeds zorgen over nieuw standplaatsenbeleid', Web page, available at: <https://www.nationaleombudsman.nl/nieuws/2018/update-juli-2018-nationale-ombudsman-nog-steeds-zorgen-over-nieuw-standplaatsenbeleid#>

<sup>47</sup> Olde Hanhof, B. (2020), 'Woonwagengewoners moeten lang wachten op standplaats', NOS, 3 October 2020, available at: <https://nos.nl/artikel/2350797-woonwagengewoners-moeten-lang-wachten-op-standplaats.html>,

<sup>48</sup> Maas, M. (2020), 'Gemeenten maken geen haast met woonwagengekken', *Binnenlands Bestuur*, 4 Oktober 2020, available at: <https://www.binnenlandsbestuur.nl/ruimte-en-milieu/nieuws/gemeenten-maken-geen-haast-met-woonwagengekken.14706433.lynkx>

<sup>49</sup> Waldnet (2020), 'Vijftien nieuwe woonwagens in Smallingerland', Waldnet, 7 mei 2020, available at: [https://www.waldnet.nl/wn/nieuws/64570/Vijftien\\_nieuwe\\_woonwagens\\_in\\_Smallingerland](https://www.waldnet.nl/wn/nieuws/64570/Vijftien_nieuwe_woonwagens_in_Smallingerland);

Halsema, L. (2020), 'Snel nieuwe plekken voor woonwagens in Elst en Zetten', *De Gelderlander*, 30 September 2020, available at: <https://www.gelderlander.nl/overbetuwe/snel-nieuwe-plekken-voor-woonwagens-in-elst-en-zetten~a82724b5/>

<sup>50</sup> Tiekstra, C., Venema, S. and Lijzenga, J. (2020), *Behoeftetepeiling woonwagengstandplaatsen provincie Limburg*, Arnhem, Bureau Companen, available at:

<https://venray.raadsinformatie.nl/document/8985553/1/08%20Bijlage%206%20-%20Behoeftetepeiling%20woonwagengstandplaatsen%20provincie%20Limburg>; Rietveld, J. (2020), 'Gemeente wil pilot extra standplaatsen voor woonwagens', *Regio Online*, 8 July 2020, available at:

<https://www.regioonline.nl/regio-arnhem-nijmegen/extra-standplaatsen-voor-woonwagens/>

<sup>51</sup> Provoost, M. (2020), 'Woonwagengfamilie in Elst is het zat: na twee jaar nog geen nieuwe plek', *Omroep Gelderland*, 9 September 2020, available at:

<https://www.omroepgelderland.nl/nieuws/2463975/Woonwagengfamilie-in-Elst-is-het-zat-na-twee-jaar-nog-geen-nieuwe-plek>, ; Van Arensbergen, W. (2020), 'Sinti protesteren tegen gemeente Valkenswaard: ze willen meer woonplekken voor familie', *Eindhovens Dagblad*, 5 June 2020, available at: <https://www.ed.nl/valkenswaard-waalre/sinti-protesteren-tegen-gemeente-valkenswaard-ze-willen-meer-woonplekken-voor-familie~af2e5f3d/>; Talpa TV (2020), 'Dakloze

## Education developments

In the field of primary and secondary education, the Ministry of Education maintained the longstanding additional support-structure for schools regarding pupils from vulnerable groups in Dutch society. Among them are Sinti and Roma youth. This yearly Ministerial call for application refers explicitly to (the cultural backgrounds of) Sinti and Roma, defining also the minimum number (of four pupils) that must be present at the concerning school.<sup>52</sup> An amount of € 3.338 is available for each pupil or student from a vulnerable group, in order to make additional human resources available for extra school-assistance. In 2019-2020, 32 applicants out of a (n) (unknown) total of schools with Roma and Sinti children among their school population used this facility.<sup>53</sup> Travellers are no longer specifically mentioned in this particular financial scheme, due to significant educational progress in the last few decades; locally, however, educational support continues to be provided to pupils from this particular background.<sup>54</sup>

Friction and turmoil arose within the Sinti community as the terminology '*Zigeunerkinderen*' (Gypsy-children) was still used in the annual publication of this financial support scheme.<sup>55</sup> In this publication (2020), the Ministry of Education corrected this error and consequently refers to Sinti and Roma (cultural backgrounds)<sup>56</sup>. These amendments in the financial support

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woonwagenbewoners leven uit protest op parkeerplaats: 'Schandalig dat het zo moet', *Hart van Nederland TV*, 11 Juni 2020, available at:

<https://www.hartvannederland.nl/nieuws/2020/woonwagenbewoners-dakloos-protest/>;

Hagenaars, C. (2020, "'Protestkamp' gaat de vierde week in, maar gemeente geeft nog steeds geen krimp", *BN De Stem*, 24 juni 2020 available at

<https://www.bndestem.nl/roosendaal/protestkamp-gaat-de-vierde-week-in-maar-gemeente-geeft-nog-steeds-geen-krimp~a71a1484/?utm,>;

Netherlands Judiciary (Rechtspraak) (2020), 'Gemeente Beek mag betoging met caravans voorlopig niet beeindigen', News release, 25 June 2020,

available at <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Limburg/Nieuws/Paginas/Gemeente-Beek-mag-betoging-met-caravans-voorlopig-niet-beeindigen.aspx>

<sup>52</sup> The Netherlands, Minister for Primary and Secondary Education and Media (*Minister voor Basis- en Voortgezet Onderwijs en Media*) (2020), 'Tweede Regeling bekostiging personeel PO 2020–2021 en vaststelling bedragen voor ondersteuning van leerlingen in het PO en VO 2020–2021', *Staatscourant*, September 4, 2020, Nr. 45996, available at:

<https://zoek.officielebekendmakingen.nl/stcrt-2020-45996.html>

<sup>53</sup> Information through E-mail Communication by the OWRS support provision (Education for Travellers, Roma and Sinti), d.d. 6 October 2020.

<sup>54</sup> Information by the OWRS support provision

<sup>55</sup> OWRS (2020), 'Taking stock of unrest' (*Inventarisatie ervaringen met de ouderverklaring op scholen en de commotie over de ouderverklaring*), Web page, available at

<https://www.owrs.nl/nieuws/inventarisatie>

<sup>56</sup> Adaptations in the special finance facility scheme referring Roma and Sinti children (*Aanpassingen doorgevoerd in regeling bijzondere bekostiging Roma en Sinti kinderen*), available at <https://www.owrs.nl/nieuws/aanpassingen>



scheme<sup>57</sup> also resulted in procedural changes towards the way in which pupils of these backgrounds are organized. This registration happens on a local level, within the school administration, and only with the parents' consent via a special form ('*Ouderverklaring*'). The registration is temporary and serves solely this purpose. It is up to the schools and parents to clarify respectively to be informed about the reason of this procedure. The Ministry of Education consulted the stakeholders in the educational field and in the field of Sinti for a better, more transparent and more comprehensive procedure. This also includes examples of the form that parents need to fill out in order to give consent ('*Ouderverklaring*').<sup>58</sup>

The support network Education, Travellers, Sinti and Roma (*Onderwijs Woonwagenbewoners, Sinti en Roma or OWRS*)' conducted a survey<sup>59</sup> on the effects of COVID-19 on the schooling of Roma, Sinti and Traveller children, and on the benefits of extra measures provided by the Ministry of Education for the assistance of pupils of vulnerable groups. Finally, this resulted in a small-scale survey within the OWRS-network among local counsellors (*onderwijsconsulenten*) and other school related officials. The results show that pupils of Sinti, Roma and Traveller backgrounds experienced substantial educational backlogs (50%) and backlogs to some extent (35%), during the COVID-period lockdown. 15% did not know whether there were any backlogs.<sup>60</sup>

Without generalising – as the survey organizers stated that many children and families are doing well under the circumstances, varying per region - the results point out the following observations: During the lockdown parents and children encountered difficulties in catching up through home-education, parents hardly lived up school expectations regarding home-work assistance, for digital teaching handouts parental ICT-skills and home-facilities fall short, absence of quiet learning space and, finally, school absenteeism was notified after the schools

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<sup>57</sup> The Netherlands, Minister for Primary and Secondary Education and Media (*Minister voor Basis- en Voortgezet Onderwijs en Media*) (2020), 'Tweede Regeling bekostiging personeel PO 2020–2021 en vaststelling bedragen voor ondersteuning van leerlingen in het PO en VO 2020–2021', Staatscourant, September 4, 2020, Nr. 45996, available at: <https://zoek.officielebekendmakingen.nl/stcrt-2020-45996.html>

<sup>58</sup> The Netherlands, Education Executive Agency – Ministry of Education, Culture and Science (*Dienst Uitvoering Onderwijs - Ministerie Onderwijs, Cultuur en Wetenschappen*) (2020), 'Bijzondere bekostiging aanvragen - Aanwezigheid leerlingen met een culturele achtergrond van de Roma en Sinti', available at: <https://duo.nl/zakelijk/primair-onderwijs/bekostiging-en-subsidies/bijzondere-bekostiging/aanwezigheid-leerlingen-met-culturele-achtergrond-roma-en-sinti.jsp> and Example Parental Consent (*Voorbeeld Ouderverklaring*), <https://www.owrs.nl/nieuws/bijeenkomst-scholen-met-roma-en-sintikinderen>

<sup>59</sup> For more information see the [Franet country study](#) (page 7-8) on the impact of COVID-19 on the Roma and

Travellers communities in the Netherlands published on 15 June 2020.

<sup>60</sup> OWRS (2020), 'Networkmeeting in retrospect' [Terugblik op de Netwerkbijeenkomst van 17 September 2020 (*Networkmeeting in retrospect*)] available at: <https://www.owrs.nl/nieuws/terugblik-netwerkbijeenkomst>

opened up again after the complete lock down period ended, partly due to protective attitudes of parents, strengthened by fear for containment.<sup>61</sup>

## **Other developments on inclusion and equality: education and employment**

The Ministry of Social Affairs and Employment is responsible for coordinating the integration Agenda and functions as National Contact Point Roma Issues (NCRI) to the EU and the Council of Europe. In December 2019, the Ministry of Social Affairs and Employment published a measure to include within its labour market integration initiatives a mediators-pilot specifically aimed at the local support of Roma and Sinti inclusion in educational facilities in seven municipalities.<sup>62</sup> In 2020, the budget for these mediators-pilot for the next three years (€239.000 per year) has been earmarked in the local decentralization funds for the following seven municipalities: Nieuwegein, Lelystad, Ede, Enschede, Sittard-Geleen (predominantly Roma), Nuenen, and Son en Breugel (Sinti).<sup>63</sup> The Minister for Social Affairs and Employment has confirmed this particular measure, resulting from the periodic Sinti and Roma Inclusion Monitor (2018), in July 2020 in his letter to the House of Representatives<sup>64</sup>, which accompanies the latest (fourth) Sinti and Roma Inclusion Monitor (2020).<sup>65</sup>

Early 2020, some of the pilot projects have been set up in Enschede (Toy4Inclusion, activities for kids and parents, organization by the Salvation Army in cooperation with Roma grassroots organisation Foundation Nevo Trajo<sup>66</sup>) or continued in Nuenen (Sinti school assistant in primary education), in Lelystad (school dropout and multiproblem among Roma-families) and Nieuwegein/IJsselstein region (Roma mediator), other pilot projects are in process of being initiated. These education-related projects suffered backdrops and delays

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<sup>61</sup> OWRS (2020), 'Networkmeeting in retrospect' [Terugblik op de Netwerkbijeenkomst van 17 September 2020 (*Networkmeeting in retrospect*)] available at:

<https://www.owrs.nl/nieuws/terugblik-netwerkbijeenkomst>

<sup>62</sup> See for a more extensive description the 2019 update in the Dutch contribution for the FRA Yearbook 2020 (page 23-24), available at

[https://fra.europa.eu/sites/default/files/fra\\_uploads/netherlands-frr2020\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/netherlands-frr2020_en.pdf)

<sup>63</sup> The Netherlands, Ministry of the Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2020), Gemeentefonds, Meicirculaire 2020 (Publication May), available at: <https://zoek.officielebekendmakingen.nl/blg-935889>

<sup>64</sup> The Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2020), 'Monitor Sociale Inclusie', Letter to House of Representatives, 15 July 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/07/15/kamerbrief-monitor-sociale-inclusie-meting-4/aanbiedingsbrief-monitor-sociale-inclusie-meting-4-derde-vervolgmeting-naar-de-woon-en-leefomstandigheden-roma-en-sinti.pdf>

<sup>65</sup> Seidler, Y., Van Leeuwen, R., Koster L.A.J., Van Sam, M., Van Wensveen P. en Jorna, P. (2020), *Monitor Sociale Inclusie (meting 4). Derde vervolgmeting naar de woon- en leefomstandigheden van Roma en Sinti in Nederland*, Rotterdam, Risbo - Erasmus Universiteit Rotterdam available at: <https://www.rijksoverheid.nl/documenten/rapporten/2020/02/29/monitor-sociale-inclusie-meting-4>

<sup>66</sup> 'New Life' in Romani language, <https://www.facebook.com/Lara.Toy84>

because of the general Corona-lockdown in April-June 2020 and slowly took up activities in August and September.<sup>67</sup>

Beside these pilot projects, other activities stimulated by the Ministry of Health, Welfare and Sport (Post-War Sinti and Roma Compensation Fund) continued on a voluntary basis but were limited by the COVID-19 restrictions as most of them are planned outdoors (festivals) and publicly oriented (exhibitions).<sup>68</sup> Some of these activities were carried out on a regular weekly small-scale basis, for kids with a Roma background and with other cultural backgrounds, like food making and street clean-ups, music and dance, as well as sports and football, organised by the Roma grassroots organization Stepup4Youth together with Youth for Christ.<sup>69</sup>

Related to these kinds of participatory activities the following developments are relevant in the mainstream policy field of the social domain. The Minister of Health, Welfare and Sports (VWS) commissioned to research the implications of needed changes in the local municipal funds ("*Herijking Gemeentefonds Sociaal Domein*").<sup>70</sup> Roma are explicitly mentioned in connection to policy options and priorities to be taken into account when it comes to stimulate the social participation of youths from vulnerable groups in society. The latter observation is also in line with the recent Council Recommendation by the EU on enforcing youth guarantees in connection with groups with a vulnerable position in society (including Roma).<sup>71</sup>

Finally, the already fragile economic entrepreneurial subsistence activities suffered because of COVID-19. Especially those activities suffered which are part of the cultural-economical local and national agenda of musical performances, fairground attractions and stallholders. Among them, the formally organised enterprises

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<sup>67</sup> For more information see the [Franet country study](#) on the impact of COVID-19 on the Roma and Travellers communities in the Netherlands released on 15 June 2020, posted 29 September 2020.

<sup>68</sup> For more information see the [Franet country study](#) (page 13) on the impact of COVID-19 on the Roma and Travellers communities in the Netherlands published on 15 June 2020.

<sup>69</sup> Facebook page Stepup4Youth,

<https://www.facebook.com/stepup4youthofficial/posts/2955193857862333> ;

<sup>70</sup> Andersson Ellfers Felix (2020), Research Account Reassessment Municipal Funds Social Domain [*Onderzoeksverantwoording Herijking Gemeentefonds Sociaal Domein*], Utrecht, Andersson Ellfers Felix, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/04/22/onderzoek-verantwoording---herijking-gemeentefonds-sociaal-domein/rapport-onderzoeksverantwoording-herijking-gemeentefonds-sociaal-domein.pdf>

<sup>71</sup> The Netherlands, Ministry of Foreign Affairs (*Ministerie van Buitenlandse Zaken*) (2020), 'Fiche 5: Raadsaanbeveling versterken jongerengarantie', available at:

<https://www.rijksoverheid.nl/documenten/rapporten/2020/09/04/raadsaanbeveling-versterken-jongerengarantie>

managed to get media attention and succeeded in benefitting from governmental mainstream financial support schemes.<sup>72</sup>

## **Roma related developments on youth care**

The Ministry of Welfare, Health and Sports commissioned also to research changes requested in the local municipal funds ("*Herijking Sociaal Domein*") related to specialist youth care, in which the Roma issue was referred to explicitly. Among the recommendations, the need for the inclusion of knowledge and expertise on the Roma was mentioned when it comes to develop a centre of expertise, consultation and advice.<sup>73</sup>

The issue of multi-problems among families with a Roma background is treated in the periodic report published by the National Rapporteur on Human Trafficking and Sexual Violence against Children.<sup>74</sup> In Dutch policy, both issues – multi-problems and human trafficking - are interconnected since programmes have been implemented (2014-2018). At various levels, government agencies are addressing the multi-problems of Roma families and criminal exploitation through coordination and exchange mechanisms on a regular basis, in which municipalities participate together with the Ministry of Social Affairs and Employment and the Ministry of Justice and Security and the Centre for Criminality Prevention and Safety and the Salvation Army.<sup>75</sup> Specific Roma relating risk-analyses and -profiles are mentioned with caution and recommended to be framed into mainstream approaches. Specialist youth care based upon trust and engaging adolescents or peers ('cultural mediators' and 'hands-on' experts) are referred to as favourable in the search for positive approaches and results.

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<sup>72</sup> For more information see the [Franet country study](#) (page 4-5) on the impact of COVID-19 on the Roma and

Travellers communities in the Netherlands published on 15 June 2020 .

<sup>73</sup> Andersson Ellfers Felix (2020), Fieldscan Centres of Expertise specialistic Youthcare [Rapportage Veldscan Expertisecentra specialistische jeugdhulp], Utrecht, Andersson Ellfers Felix, available at: <https://zoek.officielebekendmakingen.nl/blg-940276>

<sup>74</sup> The Netherlands, National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen kinderen) (2020), Victim monitor human trafficking 2014-2018 [*Slachtoffermonitor mensenhandel 2014-2018*], The Hague, National Rapporteur, available at: [https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20Mensenhandel%202014-2018\\_tcm23-412692.pdf](https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20Mensenhandel%202014-2018_tcm23-412692.pdf)

<sup>75</sup> The Netherlands, National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children (*Nationaal Rapporteur Mensenhandel en Seksueel Geweld tegen kinderen*) (2019), Victim monitor human trafficking 2014-2018 [*Slachtoffermonitor mensenhandel 2014-2018*], The Hague, National Rapporteur, available at: [https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20Mensenhandel%202014-2018\\_tcm23-412692.pdf](https://www.nationaalrapporteur.nl/binaries/Slachtoffermonitor%20Mensenhandel%202014-2018_tcm23-412692.pdf)

## Sinti and Roma Consultation

In 2020, a feasibility study concerning the possible creation of a Sinti and Roma advisory body at the national level was published. For this study, commissioned by the Sinti and Roma Commission linked to the Ministry of Health, Welfare and Sport, 23 respondents were interviewed, among them 17 Sinti and Roma key persons as well as public officials (6 respondents).<sup>76</sup> The researchers observed a broad consensus about the importance of such central advisory body. The way in which such an organisation might be shaped, however, needs to be taken up in future steps by the Sinti and Roma themselves in close consultation with the communities involved. In this respect, the researchers noted, on the one hand, differences among spokespersons from the communities involved, while on the other hand, public officials showed an attitude of non-interference.<sup>77</sup> The results of the research are expected to be discussed in a conference. Meanwhile, media clippings and articles focused on the (long lasting) divisions between the several Sinti and Roma populations.<sup>78</sup>

The government has suggested another similar initiative<sup>79</sup>, a Platform of Expertise/Knowledge, serving as a flexible mechanism to dialogue twice a year with Sinti and Roma initiatives. In this letter to Parliament, the Dutch government formulated the Dutch attitude towards the Europe Framework on Roma inclusion (2012-2020). The Netherlands will continue its mainstream approach for the next EU time span (2020-2027), with some room for Roma and Sinti relating policy measures. Antigyptism (or antiziganism) will be taken into account more

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<sup>76</sup> Smits van Woesberghe, E., Asmoredjo, J. and Out, M. (2020), An explorative study of central advocacy for Roma and Sinti, taking stock of views within the two communities, [*Een verkennend onderzoek naar centrale belangenbehartiging voor Roma en Sinti, een inventarisatie naar meningen binnen de twee gemeenschappen*], Utrecht, Verwey-Jonker Instituut, available at <https://www.verwey-jonker.nl/publicatie/verkennd-onderzoek-naar-centrale-belangenbehartiging-voor-roma-en-sinti/>

<sup>77</sup> Smits van Woesberghe, E., Asmoredjo, J. and Out, M. (2020) An explorative study of central advocacy for Roma and Sinti, taking stock of views within the two communities, [*Een verkennend onderzoek naar centrale belangenbehartiging voor Roma en Sinti, een inventarisatie naar meningen binnen de twee gemeenschappen*], Utrecht, Verwey-Jonker Instituut

<sup>78</sup> Vissers, P. (2020), 'Verdeeldheid bedreigt de belangenbehartiging van Roma en Sinti', Trouw, 16 Maart 2020, available at: <https://www.trouw.nl/nieuws/verdeeldheid-bedreigt-de-belangenbehartiging-van-roma-en-sinti~be477121/>; Van Unen, A. (2020), 'Internationale Romadag dit jaar weinig feestelijk', Website Kennisplatform Integratie & Samenleving (KIS). 8 April 2020, available at: <https://www.kis.nl/artikel/internationale-romadag-dit-jaar-weinig-feestelijk>

<sup>79</sup> Netherlands, Minister for Foreign Affairs (2020) 'Letter referring new Commission proposals and initiatives of EU-memberstates concerning the EU Roma Framework', *Brief van de Minister van Buitenlandse Zaken aan de Eerste Kamer, d.d. 17 november 2020 resp, Tweede Kamer d.d. 23 november 2020, inzake Nieuwe Commissievoorstellen en initiatieven van de lidstaten van de Europese Unie in verband met het EU Roma Strategisch Raamwerk*, <https://zoek.officielebekendmakingen.nl/kst-955653> respectively <https://zoek.officielebekendmakingen.nl/kst-956643>

explicitly, by the government and the national commissioner on anti-discrimination (to be installed in 2021), in addition to antisemitism and islamophobia. On 13 October 2020, the International Holocaust Remembrance Alliance, of which the Netherlands is an active member, adopted a working definition of antigypsyism.<sup>80</sup> Also in the Dutch Parliament, Members of Parliament used the term antiziganism for the first time during a debate<sup>81</sup> and in an adopted motion<sup>82</sup>, which was lodged by opposition party Denk. This motion demands the government to incorporate antiziganism in its broader fight of racism and discrimination. The motion mentions the results of the recent FRA MIDI II survey among six EU Member states.<sup>83</sup>

## **2. Policy and legal measures and developments directly or indirectly addressing Roma/Travellers inclusion**

Country visits in function of several international instruments also serve as opportunities for consultation and advocacy tools for Dutch Sinti, Roma and Travellers. In 2020, several international governmental bodies (UN, Council of Europe) published Roma related reports of their country visits, which are part of international commitments. In addition, in this second paragraph, the Periodic Roma and Sinti Inclusion Monitor, part of the Dutch commitments to the European Commission (EU), will be treated briefly.

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<sup>80</sup> IHRA (2020), 'About the IHRA working definition of antigypsyism/anti-Roma discrimination', Web page, International Holocaust Remembrance Alliance (IHRA), available at:

<https://www.holocaustremembrance.com/resources/working-definitions-charters/working-definition-antigypsyism-anti-roma-discrimination>

<sup>81</sup> The Netherlands, House of Representatives (*Tweede Kamer*) (2020), Debate on the Budget of the ministry for Interior and Kingdomrelationships (*Begrotingsbehandeling Binnenlandse Zaken, pagina 7*) (14 October 2020, published on 4 December 2020), available at

<https://zoek.officielebekendmakingen.nl/h-tk-20202021-14-6.html>

<sup>82</sup> The Netherlands, House of Representatives (*Tweede Kamer*) (2020), Vaststelling van de begrotingsstaten van het Ministerie van Binnenlandse Zaken en Koninkrijksrelaties (VII) voor het jaar 2021, Nr. 26, MOTIE VAN HET LID ÖZTÜRK, Kamerstuk 35 570 VII, available at

<https://zoek.officielebekendmakingen.nl/kst-35570-VII-26.html>

<sup>83</sup> Roma and Travellers in six countries, FRA Survey 2020 (page 35, Figure 6; see also page 27, Figure 1), available at [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-roma-travellers-six-countries\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-roma-travellers-six-countries_en.pdf)

In July 2020<sup>84</sup>, the 6<sup>th</sup> Council of Europe evaluation (November 2019)<sup>85</sup> of the Dutch implementation of the commitments as specified in the European Charter on Regional and Minority Languages became available, accompanied by a governmental response on the main recommendations.<sup>86</sup> Of these three recommendations, one concerns the non-territorial minority languages existing in the Netherlands, being Yiddish and Romani (spoken by Sinti as well as Roma residents). As speakers of these languages do not feel committed to a local or regional authority, and vice versa in this respect, key representatives argued in their exchange with the Committee of Experts, a direct contact point is failing. In its response, the Ministry of the Interior welcomes the suggestion by the Committee to function as a national contact point and is looking forward to further initiatives by the representatives of the speakers of these languages. The Committee of Ministers will take up the report, its recommendations and the response in its forthcoming session.

On 2 July 2020, the report by the UN's Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance on her visit to the Netherlands from 30 September to 7 October 2019, meeting government officials was published.<sup>87</sup> With respect to political representation, the Special Rapporteur learned from documents and in exchange with spokespersons that few Roma are participating in policymaking bodies. She regretted that lack of data hinders understanding of the nature and extent of labour exclusion experienced by Roma, Sinti and Travellers and urged the Dutch government to implement inclusive education policies that guarantee the participation of the Roma community, stressing also the importance of the right to being consulted and of obtaining free, prior and informed consent of Roma (families). The Special Rapporteur welcomed the fact that the Dutch government adopted a new policy to protect Travellers in the Netherlands from housing discrimination and its affirmation of Travellers' rights. The remaining challenge for the Dutch

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<sup>84</sup> The Netherlands, Minister of Interior and Kingdom Relations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2020), Vaststelling van de begrotingsstaten voor het jaar 2020, Kamerstuk 35 000 VII, Nr. 134, 21 July 2020, available at: <https://zoek.officielebekendmakingen.nl/kst-35300-VII-134.html>

<sup>85</sup> Council of Europe (2019), Report of the Committee of Experts presented to the Committee of Ministers of the Council of Europe in accordance with Article 16 of the Charter Sixth Report. THE NETHERLANDS, available at: <https://rm.coe.int/ecrml-netherlands-6th-evaluation-report/16809f023f> (retrieved in cache)

<sup>86</sup> The Dutch response (8 September 2020) on the 6<sup>th</sup> Evaluation report by the Committee of Experts (November 2019) referring the Main Recommendations, <https://zoek.officielebekendmakingen.nl/blg-945600.pdf>

<sup>87</sup> United Nations, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (2020), *Visit to the Netherlands. Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance. Advance Edited Version*. 2 July 2020, Genève, Office of the High Commissioner for Human Rights, available at: [https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A\\_HRC\\_44\\_57\\_Add2\\_AdvanceEditedVersion.docx](https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session44/Documents/A_HRC_44_57_Add2_AdvanceEditedVersion.docx)

government, the Special Rapporteur observed, is to ensure the implementation and enforcement of this policy framework at the local level, as the municipalities and housing corporations are mainly responsible for the implementation, to take measures to strengthen monitoring and evaluation mechanisms and, to provide adequate support to assess the development of mobile home pitches and campsites throughout the Netherlands. In its extensive response to this report, the Dutch government does not deal with these explicitly Roma, Sinti and Travellers related observations, apart from a notion related to recommendation (paragraph 98, sub e) about the importance of history and education, to include a fuller account of the Dutch history, including its participation in endeavours characterized by racial discrimination and subordination: “The history of Roma, Sinti and Travellers is equally important”.

In terms of research and participation, it has been the first time that the Netherlands had been included in a large-scale research, the Roma and Travellers Survey, the report of which was published in 2020. The Dutch survey was carried out under the responsibility of the organisation Labyrinth, the final aggregated report was made and published by the Fundamental Rights Agency in September 2020.<sup>88</sup> Also for the first time, almost all interviewers had a Roma or Traveller and Sinti background plus the three mediators. 201 respondents with a Roma background were interviewed, as well as 511 respondents with a Traveller or Sinti background.<sup>89</sup> One of the results which stand out for the Netherlands as compared to the other five EU countries under consideration, is the high rate of overall discrimination perceived by Dutch Roma (76%) as compared to Dutch Sinti and Travellers (40%) or Belgium Roma (21%); higher also than Irish Travellers (65%), Swedish Roma and Travellers (50%), UK Gypsy and Travellers (42%), French Travellers (35%) and Belgium Travellers (19%).<sup>90</sup> Also in the category, ‘Stopped by the police, with ethnic profiling’ Dutch Roma reported highest numbers.<sup>91</sup>

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<sup>88</sup> European Union, Fundamental Rights Agency (2020), *Roma and Travellers in six countries – Roma and Travellers Survey*, Luxembourg, Publications Office of the European Union, 2020, available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-roma-travellers-six-countries\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-roma-travellers-six-countries_en.pdf)

<sup>89</sup> European Union, Fundamental Rights Agency (2020), *Roma and Travellers in six countries – Roma and Travellers Survey*, Luxembourg, Publications Office of the European Union, 2020, available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-roma-travellers-six-countries\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-roma-travellers-six-countries_en.pdf), Page 10, Table 1

There is no FRANET report for the Netherlands. For the Netherlands the required information was collected in-house, stated by FRA on the country research page, <https://fra.europa.eu/en/publication/2020/roma-travellers-survey#TabPubStudies>

<sup>90</sup> European Union, Fundamental Rights Agency (2020), *Roma and Travellers in six countries – Roma and Travellers Survey*, Luxembourg, Publications Office of the European Union, 2020, page 27, Figure 1, publication available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-roma-travellers-six-countries\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-roma-travellers-six-countries_en.pdf)

<sup>91</sup> European Union, Fundamental Rights Agency (2020), *Roma and Travellers in six countries – Roma and Travellers Survey*, Luxembourg, Publications Office of the European Union, 2020, page 38, Table 2, publication available at: [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2020-roma-travellers-six-countries\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2020-roma-travellers-six-countries_en.pdf)



Finally, the Sinti and Roma Inclusion Monitor period closed under the EU Framework for National Roma Integration Strategies (2012-2020) with the presentation by the Minister of Social Affairs and Employment of the fourth measurement report to the House of Representatives. In this monitoring-process, community-based respondents (39) as well as public officials (22) have been interviewed on seven social domains (education, employment, health, housing, security, freedom of choice, contact with public authorities).<sup>92</sup> The findings of this qualitative research brought the government to the following conclusions and measures:<sup>93</sup>

- social inclusion of Roma and Sinti still lags behind on all fields, as compared to other residents
- mainstreamed approaches call for a long-term continuation and focus on positive examples
- measures on participation<sup>94</sup> and experienced discrimination<sup>95</sup> need to be brought into conjunction
- seven education and labour market related pilots would be evaluated in 2023.

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<sup>92</sup> Seidler, Y., Van Leeuwen, R., Koster L.A.J., Van Sam, M., Van Wensveen P. en Jorna, P. (2020), Monitor Sociale Inclusie (meting 4). Derde vervolgmeting naar de woon- en leefomstandigheden van Roma en Sinti in Nederland, Rotterdam, Risbo - Erasmus Universiteit Rotterdam available at: <https://www.rijksoverheid.nl/documenten/rapporten/2020/02/29/monitor-sociale-inclusie-meting-4>

<sup>93</sup> The Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2020), 'Monitor Sociale Inclusie', Letter to House of Representatives, 15 July 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/07/15/kamerbrief-monitor-sociale-inclusie-meting-4/aanbiedingsbrief-monitor-sociale-inclusie-meting-4-derde-vervolgmeting-naar-de-woon-en-leefomstandigheden-roma-en-sinti.pdf>

<sup>94</sup> The Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2019) Participatiewet. Factsheet, available at: <https://www.rijksoverheid.nl/documenten/brochures/2019/11/26/participatiewet>

<sup>95</sup> The Netherlands, Minister of Interior and Kingdomrelations (*Minister van Binnenlandse Zaken en Koninkrijksrelaties*) (2020), 'Approach discrimination' ['Kabinetsaanpak discriminatie'], Letter to House of Representatives, 15 June 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/06/15/kamerbrief-over-kabinetsaanpak-van-discriminatie/kamerbrief-over-kabinetsaanpak-van-discriminatie.pdf>

## Chapter 4. Asylum, visas, migration, borders and integration

Extension of residence permits and other authorisations to stay that expired during COVID-19 pandemic measures.

<b>EUMS/ Republic of North Macedon ia, Republic of Serbia</b>	<b>Category of TCN</b>	<b>Brief description of the measure</b>	<b>Legal source (legislation or case law as relevant) with hyperlink</b>	<b>Comments</b>
	<p>Complete this row if measures concern all/most of the TCN listed below whose (national or EU law based) permission to stay expired during COVID-19 related travel restrictions. In this case indicate in the next rows the categories to which the measure applies</p>			
	<p>Holders of visas issued based on the</p>	<p>No special measures taken.</p>	<p>Regular Procedure:</p>	<p>The IND indicates on its website that the Dutch</p>

	<p><a href="#">Visa Code</a> No. 810/2009 (as last amended by <a href="#">Regulation (EU) No. 2019/1155</a>) (Schengen visas)</p>	<p>If a holder of a visa wants extension of his visa he must make use of the regular procedure.</p> <p>On 22 April 2020, the State Secretary for Justice and Security stated, in a written consultation with members of the House of Representatives that, if foreign nationals can demonstrate that they are currently unable to return to their country of origin, they could - despite their expired residence permit - stay temporarily in the Netherlands. This stay with an expired residence permit has no consequences for the exit and future applications for a visa or residence permit.</p>	<p>The Netherlands, Aliens Circular 2000 (A) (<i>Vreemdelingencirculaire 2000 (A)</i>), A1, 5.1 Wijzigen van visa, available at: <a href="https://wetten.overheid.nl/BWBR0012287/2020-07-09#Circulaire.divisieA1_Circulaire.divisie5">https://wetten.overheid.nl/BWBR0012287/2020-07-09#Circulaire.divisieA1_Circulaire.divisie5</a></p> <p>Statement of State Secretary for Justice and Security: The Netherlands, House of Representatives (<i>Tweede Kamer der Staten Generaal</i>) (2020),</p>	<p>government understands that it may be more difficult to return during this period. The government will therefore be less strict in controlling people who stay longer than is officially allowed. However, the government does expect people to try to return, when their visa or right of residence expires.<sup>96</sup></p>
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<sup>96</sup> The Netherlands, Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*) (2020). 'Coronavirus (COVID-19): effects on application or stay', Web page, available at: <https://ind.nl/en/pages/coronavirus.aspx>

			<p>Alien Policy. Report of written consultation. Established on 22 April 2020  <i>[Vreemdelingenbeleid. Verslag van een schriftelijk overleg. Vastgesteld op 22 april 2020]</i>, Parliamentary document [<i>Kamerstuk</i>] 19 637, Nr. 2601, available at:  <a href="https://zoek.officielebekendmakingen.nl/kst-19637-2601.html">https://zoek.officielebekendmakingen.nl/kst-19637-2601.html</a></p>	
	<p>Visa-free TCN who reached the maximum of 90 days in any 180-day period under Article 4 of the <a href="#">Visa List Regulation</a> (Regulation (EU) 2018/1806)</p>	<p>No special measures taken. If a holder of a visa wants extension of his visa, he must make use of the regular procedure.</p> <p>On 22 April 2020, the State Secretary for Justice and Security stated, in a written consultation with members of the House of Representatives,</p>	<p>Statement of State Secretary for Justice and Security:  The Netherlands, House of Representatives (<i>Tweede Kamer der Staten Generaal</i>) (2020),  Alien Policy. Report of written consultation. Established on 22 April</p>	<p>The IND indicates on its website that the Dutch government understands that it may be more difficult to return during this period. The government will therefore be less strict in controlling people who stay longer than is officially allowed. However, the government</p>

		<p>that if foreign nationals can demonstrate that they are currently unable to return to their country of origin, they could - despite their expired residence permit - stay temporarily in the Netherlands. This stay with an expired residence permit has no consequences for the exit and future applications for a visa or residence permit.</p>	<p>2020 [<i>Vreemdelingenbeleid. Verslag van een schriftelijk overleg. Vastgesteld op 22 april 2020</i>], Parliamentary document [<i>Kamerstuk</i>] 19 637, Nr. 2601, available at: <a href="https://zoek.officielebekendmakingen.nl/kst-19637-2601.html">https://zoek.officielebekendmakingen.nl/kst-19637-2601.html</a></p>	<p>does expect people to try to return when their visa or right of residence expires.<sup>97</sup></p>
	<p>Holders of long-term visas issued by the EUMS (under <a href="#">Regulation (EU) No. 265/2010</a> and beyond, under national law)</p>	<p>No special measures taken. If a holder of a visa wants extension of his visa he must make use of the regular procedure.</p> <p>On 22 April 2020, the State Secretary for Justice and</p>	<p>Regular Procedure:  The Netherlands, Aliens Circular 2000 (A) (<i>Vreemdelingencirculaire 2000 (A)</i>), A1, 5.1 Wijzigen van visa, available at:</p>	<p>The IND indicates on its website that the Dutch government understands that it may be more difficult to return during this period. The government will therefore be less strict in controlling</p>

<sup>97</sup> The Netherlands, Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*) (2020). 'Coronavirus (COVID-19): effects on application or stay', Web page, available at: <https://ind.nl/en/pages/coronavirus.aspx>

		<p>Security stated, in a written consultation with members of the House of Representatives, that, if foreign nationals can demonstrate that they are currently unable to return to their country of origin, they could - despite their expired residence permit - stay temporarily in the Netherlands. This stay with an expired residence permit has no consequences for the exit and future applications for a visa or residence permit.</p>	<p><a href="https://wetten.overheid.nl/BWBR0012287/2020-07-09#Circulaire.divisieA1_Circulaire.divisie5">https://wetten.overheid.nl/BWBR0012287/2020-07-09#Circulaire.divisieA1_Circulaire.divisie5</a></p> <p>Statement of the State Secretary for Justice and Security:</p> <p>The Netherlands, House of Representatives (<i>Tweede Kamer der Staten Generaal</i>) (2020), Alien Policy. Report of written consultation. Established on 22 April 2020 [Vreemdelingenbeleid.</p>	<p>people who stay longer than is officially allowed. However, the government does expect people to try to return when their visa or right of residence expires.<sup>98</sup></p>
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<sup>98</sup> The Netherlands, Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*) (2020). 'Coronavirus (COVID-19): effects on application or stay', Web page, available at: <https://ind.nl/en/pages/coronavirus.aspx>

			<p><i>Verslag van een schriftelijk overleg. Vastgesteld op 22 april 2020</i>], Parliamentary document [<i>Kamerstuk</i>] 19 637, Nr. 2601, available at:  <a href="https://zoek.officielebekeindmakingen.nl/kst-19637-2601.html">https://zoek.officielebekeindmakingen.nl/kst-19637-2601.html</a></p>	
	<p> Holders of residence permits issued under <a href="#">Regulation (EC) No. 1030/2002</a> (as last amended by <a href="#">Regulation (EU) 2017/1954</a>)</p>	<p>No measures taken.</p> <p>If a holder of a residence permit wants extension of his visa, he must make use of the regular procedure.</p> <p>On 22 April 2020, the State Secretary for Justice and Security stated, in a written consultation with members of the House of Representatives, that if foreign nationals can demonstrate that they are currently unable to return to their country of origin, they could - despite their expired</p>	<p>Regular Procedure:  The Netherlands, Aliens Circular 2000 (B) (<i>Vreemdelingencirculaire 2000 (B)</i>), B1, 6 Het verlengen en intrekken van de verblijfsvergunning regulier bepaalde tijd, available at:  <a href="https://wetten.overheid.nl/BWBR0012289/2020-07-01#Circulaire.divisieB1_Circulaire.divisie6">https://wetten.overheid.nl/BWBR0012289/2020-07-01#Circulaire.divisieB1_Circulaire.divisie6</a></p>	<p>The IND indicates on its website that the Dutch government understands that it may be more difficult to return during this period. The government will therefore be less strict in controlling people who stay longer than is officially allowed. However, the government does expect people to try to return when their visa</p>

		<p>residence permit - stay temporarily in the Netherlands. This stay with an expired residence permit has no consequences for the exit and future applications for a visa or residence permit.</p>	<p>Statement of the State Secretary for Justice and Security: The Netherlands, House of Representatives (<i>Tweede Kamer der Staten Generaal</i>) (2020), Alien Policy. Report of written consultation. Established on 22 April 2020 <i>[Vreemdelingenbeleid. Verslag van een schriftelijk overleg. Vastgesteld op 22 april 2020]</i>, Parliamentary document [<i>Kamerstuk</i>] 19 637, Nr. 2601, available at:</p>	<p>or right of residence expires.<sup>99</sup></p>
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<sup>99</sup> The Netherlands, Immigration and Naturalisation Service (*Immigratie en Naturalisatiedienst*) (2020). 'Coronavirus (COVID-19): effects on application or stay', Web page, available at: <https://ind.nl/en/pages/coronavirus.aspx>



			<a href="https://zoek.officielebekendmakingen.nl/kst-19637-2601.html">https://zoek.officielebekendmakingen.nl/kst-19637-2601.html</a>	
	Holders of local border traffic permit under <a href="#">Regulation (EC) No. 1931/2006</a>	No restrictions were imposed on border traffic by the Dutch authorities on border traffic as response to the COVID-19 pandemic.		
	Any other category of TCN not listed above.			

Notes:

TCN = third-country nationals

EUMS = EU Member State

## Chapter 5. Information society, privacy and data protection

### 1. Legal and political initiatives that have been implemented to support access to, and use of, personal data.

On 14 February 2020, The Dutch Data Protection Authority published its report on the privacy complaints it received and handled in 2019.<sup>100</sup> In 2019, the Dutch DPA received 27,871 complaints regarding a possible privacy violation, which represents a 79% increase compared to 2018. The Dutch DPA handled 67% of the complaints it received in 2019. The DPA conducted 138 investigations in response to complaints; in 25 of these investigations, cases of violation were discovered. 29% of complaints concerned a violation of a data subject right, such as the right to access and the right to erasure. The DPA noted that it would like to start investigations more frequently in the future, if it has sufficient capacity.

A bill amending the Telecommunications Data Retention Act (*Wet bewaarplicht telecommunicatiegegevens*) is still under review by the House of Representatives since September 2016. The aim of this bill is to bring Dutch law on Data Retention in line with Digital Rights Ireland judgment of the CJEU. On 26 March 2018, the Minister of Justice and Security sent a letter to the House of Representatives in which he announced that the bill amending the Telecommunications Data Retention Act (*Wet bewaarplicht telecommunicatiegegevens*), will be changed considerably due to the European Court of Justice (ECJ) arrest in the case of *Tele2 Sverige and the case Home Secretary v. Watson*.<sup>101</sup> The Minister will prepare an amendment to the original bill. The obligation to retain telecommunications data will be limited to user data. Providers need not store traffic and location data. A balanced retention obligation for so-called user data of a telephone number or IP address is, according to the Minister, essential for the investigation and prosecution of serious criminal offences. In an increasing number of cases, such as child pornography, cybercrime and online arms trade, it is often crucial that the police and the Public Prosecution Service can subsequently determine which person has used a telephone number or IP address that was found in a criminal investigation at a certain point in time. On 25 September 2018, Minister of Justice and Security sent a letter to the House of Representatives in which he informs the House of Representatives about a delay of the amendment to the original bill, which he announced on 26 March

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<sup>100</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), Complaints Report : facts & figures. Overview 2019 [*Klachtenrapportage: facts & figures Overzicht 2019*], available at: [https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/klachtenrapportage\\_ap\\_2019.pdf](https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/klachtenrapportage_ap_2019.pdf)

<sup>101</sup> The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2018), Data retention ['Dataretentie'], Letter Sent to House of Representatives, 26 March 2018, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2018/03/26/brief-tweede-kamer-dataretentie/TK+Dataretentie.pdf>

2018.<sup>102</sup> The delay is made necessary because of the large use of Carrier Grade Network Address Translation (GCN). CGN allows dozens to hundreds of Internet connections to be bundled under one public IPv4 address so that with a relatively limited number of public IP addresses all users have enough connections. The Minister informs the House in the letter of 25 September 2018 that he commissioned the WODC or the Research and Documentation Centre (WODC) of the Ministry of Justice and Security to study the matter. Since then, no new developments have taken place. The study has been published by the WODC at the end of 2019. The study carried out by research and consultancy firm Dialogic.<sup>103</sup> It offers the four policy options: A functional 1:1 identification obligation for ISPs; Encourage or oblige ISPs to roll out IPv6; A functional 1:N identification requirement for ISPs; and, No specific new strategy; 'nudging'.

In April 2020, the government made an attempt to fast track the development of two apps to fight COVID-19. One app should alert people if they had been in contact with someone who has coronavirus, and the other app should enable people who show symptoms of COVID-19 to get and remain in touch with physicians. This attempt failed. For more information on this attempt, we refer to an earlier report.<sup>104</sup> After the failed attempt at fast-tracking two apps to fight COVID-19 in April, the government appointed a team of developers, who created a Coronavirus tracking app (*CoronaMelder*). On 24 June 2020 the Minister of Health, Welfare and Sport informed the House of Representatives that tests will be held with this news app among a representative group of people living in 5 regions in the Eastern part of the Netherlands.<sup>105</sup> These tests started on 1 July 2020. The aim of these tests is to assess whether the app is understandable and easy to use, and what improvements need to be made. The app uses Bluetooth technology to register with whom users have been in contact. If the user is diagnosed with the

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<sup>102</sup> The Netherlands, Ministry of Justice and Security (*Ministerie van Justitie en Veiligheid*) (2018), Data retention ['Dataretentie'], Letter Sent to House of Representatives, 25 September 2018, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2018/09/25/tk-dataretentie/tk-dataretentie.pdf>

<sup>103</sup> Van de Vorst, T., Steur, J., Jelcic, N., and Van Rees, J. van (2019), Internet identification options based on IP address [Mogelijkheden voor identificatie op internet op basis van IP-adres], Utrecht, Dialogic, available at: [https://www.wodc.nl/binaries/3006\\_Volledige\\_Tekst\\_tcm28-413412.pdf](https://www.wodc.nl/binaries/3006_Volledige_Tekst_tcm28-413412.pdf)

<sup>104</sup> For more information on the attempt by the government to fast-track two Corona apps, pages 12-13 and 15 of the Franet country study released on 25 May 2020.

<sup>105</sup> The Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2020), 'COVID19, Update stand van zaken', Letter to the House of Representatives, 24 June 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/06/25/covid-19-update-stand-vanzaken/covid-19-update-stand-van-zaken.pdf>

coronavirus, the information can be shared with all contacts. However, the regional health boards will have to give approval before actual sharing can take place. From 17 August 2020, the Coronavirus tracking app (*CoronaMelder*) can be downloaded nationwide across testing regions as well as other regions. However, the app is not fully functional outside the testing regions.<sup>106</sup> To provide a legal basis for the Coronavirus tracking app the government submitted a Bill for an Emergency Act on Notification Application COVID-19 (*Tijdelijke Wet Notificatieapplicatie Covid-19*) to the House of Representatives on 21 August 2020.<sup>107</sup> The bill passed the House of Representatives on 2 September 2020. On 6 October 2020, the bill passed the Senate. The Emergency Act on Notification Application COVID-19 took effect on 10 October 2020.<sup>108</sup> The Act states that the use of the app is voluntary and no information of users or the location of a user is stored. The Act also introduces an anti-abuse provision to prevent the app from being used for malicious intent.

On 13 May 2020, the State Secretary of Economic Affairs and Climate sent a draft Bill amending the Telecommunications Act (the Act that implements the e-privacy Directive), so cell phone data can be used to diminish the spread of COVID-19 to the Dutch Protection Authority. The draft bill carries the title "Emergency act on information transmission to the RIVM in relation to COVID-19" ("*Tijdelijke wet informatieverstrekking RIVM i.v.m. COVID-19*"). It would essentially force telecommunication service providers to collect mobile phones meta data (location and traffic data), and to send it to the National Institute for Public Health and the Environment or RIVM. The draft bill was not published. The Dutch Data Protection Authority reacted negatively about this draft bill.<sup>109</sup> The DPA criticised the proposal on various grounds. The amendment to the

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<sup>106</sup> The Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2020), 'Wanneer kan ik CoronaMelder downloaden en gebruiken?', Web page, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-app/vraag-en-antwoord/wanneer-kan-ik-de-corona-app-downloaden-en-gebruiken>

<sup>107</sup> The Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2020), Emergency Act on Notification Application COVID-19 [Tijdelijke wet Tijdelijke Wet Notificatieapplicatie Covid-19 ], available at: <https://www.eerstekamer.nl/9370000/1/j9vvkfvj6b325az/vlbf7endunwm/f=y.pdf>

<sup>108</sup> The Netherlands, Emergency Act on Notification Application COVID-19 (Tijdelijke wet notificatieapplicatie covid-19), 6 October 2020, available at: <https://wetten.overheid.nl/BWBR0044194/2020-10-10/#ArtikelI>

<sup>109</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), 'Advies over het concept voor wijziging van de Telecommunicatiewet in verband met informatieverstrekking aan het RIVM (Covid-19 crisis)'. Letter to the State Secretary of Economic Affairs and Climate, 19 May 2020, available at: [https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/advies\\_telecomdata\\_corona.pdf](https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/advies_telecomdata_corona.pdf)

Telecommunications Act was meant to be permanent in the event of a new pandemic. Furthermore, the DPA criticised the lack of precise definition and demarcation in relation to data collection, the type of data to be collected, and the modalities of processing. The AP also criticised the lack of adequate justification concerning the proportionality of the law, and in particular concerning the existence of a pressing social need. Finally, the DPA criticised the lack of procedural safeguards (parliamentary, judicial or independent administrative body), especially given the large discretion awarded to the Minister in the draft bill. On 28 May 2020, the State Secretary for Economic Affairs and Climate Policy sent the revised Bill to the House of Representatives.<sup>110</sup> The second Bill addresses these various criticisms. The law would now be temporary, being in force for only one year. The purpose has been specified, and so have the modalities of processing: the proposal defines in detail the pseudonymisation requirements, as well as the safeguards to ensure that the data processed by the RIVM are anonymous statistics. The pressing social need is further justified. Finally, the law is submitted to parliamentary control in the form of an assessment of its effectiveness and fitness for purpose after 6 months. This bill is currently under review of the House of Representatives. The DPA has not reviewed the bill yet. On 7 July 2020, newspaper 'NRC' published an article in which providers and the chair of the Dutch DPA express their doubts about the bill.<sup>111</sup> They ask that better safeguards be enshrined in the Bill, in particular as far as the necessity of the measure is concerned, and as far as the anonymization process is concerned. As things stand, the anonymization process is insufficiently specified in the law, and therefore it is unclear to the telecom providers whether it will perform as well as advertised by the government.

On 30 July 2020, the Dutch Data Protection Authority took the decision to fine the National Credit Register (*Bureau Krediet Registratie* or BKR) €830,000 for imposing specific thresholds before allowing data subjects to access and inspect their data.<sup>112</sup>

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<sup>110</sup> The Netherlands, State Secretary for Economic Affairs and Climate Policy (*Staatssecretaris voor Economische Zaken en Klimaat*) (2020), Bill for Emergency Act on information transmission to the RIVM in relation to COVID-19" (*Tijdelijke wet informatieverstrekking RIVM i.v.m. COVID-19*), Sent to House of Representatives, 28 May 2020, <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/29/wetsvoorstel-telecommunicatiewet/Wetsvoorstel+telecommunicatiewet.pdf>

<sup>111</sup> Heck, W. (2020), 'Privacywaakhond: spoedwet voor volgen van burgers via hun mobiele telefoon moet van tafel', *NRC*, 3 July 2020, available at: <https://www.nrc.nl/nieuws/2020/07/03/privacywaakhond-spoedwet-voor-volgen-van-burgers-via-hun-mobiele-telefoon-moet-van-tafel-a4004867>

<sup>112</sup> The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), Besluit tot het opleggen van een bestuurlijke boete, 30 July 2020, available at: [https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/besluit\\_bkr\\_30\\_juli\\_2019.pdf](https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/besluit_bkr_30_juli_2019.pdf)

The Dutch DPA received complaints from data subjects about the difficulties involved in accessing the data the National Credit Register held on them. The Dutch DPA considered these complaints significant enough to warrant an investigation. In particular, the National Credit Register or BKR had asked for the payment of a fee when individuals requested access to data as well as only allowing individuals to access their data at no cost once a year through written mail. Specifically, the Dutch DPA decided that the data subjects request for inspection of their data was not excessive and that the BKR had violated Article 12(5) of the General Data Protection Regulation (Regulation (EU) 2016/679) ('GDPR'), which provides that data controllers should allow data subjects access to and inspection of their personal data free of charge. The decision by the Dutch DPA on the fine is not final, as BKR has appealed its decision before the judge.

As of 10 August 2020, restaurants, bars, cafes, terraces and hotels (the whole hospitality industry) are obliged to ask clients to register their contact details to make it easier for the municipal health services to carry out contact tracing.<sup>113</sup> Visitors register on a voluntary basis. If a visitor does not want to give permission, access to the restaurant etc. cannot be denied. Data may only be used for source and contact research. Data must be destroyed after 14 days. Newspaper 'De Volkskrant' reported that the Dutch DPA expresses its concerns about the way in which hospitality entrepreneurs register contact details of visitors.<sup>114</sup> Often, entrepreneurs fail to respect the privacy of their visitors: lists of telephone numbers go from table to table and are sometimes even used for 'romantic' purposes.

On 29 April 2020, the Annual Report, covering the year 2019, of the Internet Watch Foundation (IWF) was published.<sup>115</sup> This report shows that the Netherlands hosts 71% of the child sexual abuse content found by the IWF. This equates to 93,962 URLs. This is an increase from 2018 when the Netherlands was found to be hosting 47% of all known child sexual abuse material.

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<sup>113</sup> The Netherlands, Ministry of Economic Affairs and Climate (*Ministerie van Economische Zaken en Klimaat*) (2020), 'Het coronavirus en de horeca en evenementen', Web page, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/ondernemers-en-bedrijven/horeca#:~:text=Per%2010%20augustus%20is%20het,de%20horeca%20niet%20worden%20geweigerd> .

<sup>114</sup> De Ruiter, M. (2020), 'Horecaondernemers moeten persoonsgegevens registreren en bewaren, maar aan privacy is niet gedacht', *De Volkskrant*, 25 August 2020, available at: <https://www.volkskrant.nl/nieuws-achtergrond/horecaondernemers-moeten-persoonsgegevens-registreren-en-bewaren-maar-aan-privacy-is-niet-gedacht~b287337c/>

<sup>115</sup> Internet Watch Foundation (IWF) (2020), *The Internet Watch Foundation. Annual report 2019*, Cambridge, The Internet Watch foundation, available at: available at: [https://www.iwf.org.uk/sites/default/files/reports/2020-04/IWF Annual Report 2020 Low-res-Digital AW 6mb.pdf](https://www.iwf.org.uk/sites/default/files/reports/2020-04/IWF%20Annual%20Report%202020%20Low-res-Digital%20AW%206mb.pdf)

The relative amount of Child Sexual Abuse Material that was detected in the Netherlands has almost doubled, from 47% of the total that they detected globally in 2018, to 71% in 2019. This is due to a pervasive business model of “bulletproof hosting”, which takes advantage of the more permissive legal system and excellent technical infrastructure that the Netherlands provide.

On 7 July 2020, the Minister for Justice and Security submitted a letter <sup>116</sup> on the fight against online child pornography to the House of Representatives, in which he stated that he sent a letter to 17 hosting companies that had child sexual abuse images on their Dutch servers. The Minister set them a deadline for taking measures; the companies were given until September 2020. This has resulted in an enormous increase in the number of checks performed by the HashCheckService, an instrument created by the police and the Online Child Abuse Expertise Centre to enable hosting companies to detect online child sexual abuse images on their servers and to remove them proactively, using unique, anonymous codes for images known to the police. In early July, 67 million images were checked, with 10,000 hits for child sexual abuse that were tagged for removal.<sup>117</sup> By September, this had risen to 18.2 billion images with almost 7.4 million hits. This contributes enormously to preventing repeated victimisation.

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<sup>116</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2020), ‘Voortgangsbrief aanpak online seksueel kindermisbruik en Kindersekstoerisme’, Letter to House Representatives , 8 October 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/07/07/tk-voortgangsbrief-aanpak-online-seksueel-kindermisbruik-en-kindersekstoerisme/tk-voortgangsbrief-aanpak-online-seksueel-kindermisbruik-en-kindersekstoerisme.pdf>

<sup>117</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2020), ‘Hostingbedrijven en kinderpornografisch beeldmateriaal’, Letter to House Representatives , 8 October 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/10/08/tk-hostingbedrijven-en-kinderpornografisch-beeldmateriaal/TK+Hostingbedrijven+en+kinderpornografisch+beeldmateriaal.pdf>

On 8 October 2020 the Minister for Justice and Security submitted a letter<sup>118</sup> on the fight against child pornography to the House of Representatives, based on a monitor of the Delft University of Technology<sup>119</sup> which shows which hosting companies still have child pornography online, where and for how long, after they were alerted to it. The monitor shows that many hosting companies now take action when they receive a notification from the Online Child Abuse Expertise Centre (EOKM) that child sexual abuse images are on their servers. On average, 84% of online child sexual abuse is removed within the agreed 24 hours following notification.

On 20 November 2020, the Minister for Justice and Security submitted a letter<sup>120</sup> to the House of Representatives, in which he announces his intention to establish by legislation an independent agency to tackle and combat online child pornographic material and the fight against online terrorist material.

On 11 November 2020, the Research and Documentation Centre or WODC of the Ministry of Justice and Security published a study on behalf the Minister for Legal Protection's agenda to improve the position of victims of unlawful online content.<sup>121</sup> The

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<sup>118</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2020), 'Hostingbedrijven en kinderpornografisch beeldmateriaal', Letter to House Representatives, 8 October 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/10/08/tk-hostingbedrijven-en-kinderpornografisch-beeldmateriaal/TK+Hostingbedrijven+en+kinderpornografisch+beeldmateriaal.pdf>

<sup>119</sup> Lone, C., Gañán, C.H., and Van Eeten, M. (2020), *CSAM Hosting Monitor Rapport september 2020*, Delft, TU Delft, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/10/08/csam-hosting-monitor---rapport-september-2020/TK+Bijlage+rapport+CSAM+Hosting+Monitor+%28002%29.pdf>

<sup>120</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2020), 'Autoriteit kinderpornografische en terroristische content', Letter to House Representatives, 20 November 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/11/20/tk-autoriteit-kinderpornografische-en-terroristische-content/tk-autoriteit-kinderpornografische-en-terroristische-content.pdf>

<sup>121</sup> Van Hoboken, J, et al (2020), WODC Study. Legal routes for the speedy removal of unlawful online content [*WODC-onderzoek: Voorziening voor verzoeken tot snelle verwijdering van*

*onrechtmatige online content*], Amsterdam, Universiteit van Amsterdam - Instituut voor Informatierecht (IVIR), [https://www.wodc.nl/binaries/3108%20volledige%20tekst\\_tcm28-464976.pdf](https://www.wodc.nl/binaries/3108%20volledige%20tekst_tcm28-464976.pdf)



motivation behind this study is that people often find it too difficult to get unlawful content removed from the Internet quickly. The report provides insight into the legal and practical feasibility of a new procedure for the removal of unlawful online content that affects people personally. The report concludes that much can be gained by setting up a central knowledge centre or hotline, which stakeholders can turn to for an integrated roadmap. A layered supply of information - both to those seeking justice themselves and to lawyers who provide them with help and assistance - is crucial in this respect. The independence of such a hotline or knowledge centre and the involvement of already existing independent supervisors with tasks in the field of unlawful online content are key concerns to be prioritised. In general, as a first step, unlawful online content is best dealt with via well-functioning complaint and Notice and Takedown procedures provided by the internet services concerned. Subsequently, public authorities have a clear and important role to play in ensuring fundamental rights and the rule of law by ensuring that individual rights can be enforced through judicial intervention. The responsibility for the protection of fundamental rights, both the protection of the right to private life and freedom of expression, requires an active role for public authorities in tackling unlawful online content.

## 2. Artificial intelligence and big data

Please fill in the table below with any initiatives you may identify in your country:

<b>MS</b>	<b>Actor*</b>	<b>Type**</b>	<b>Description</b>	<b>Are Ethical concerns mentioned?</b>	<b>Are Human Rights issues mentioned?</b>	<b>Reference</b>

				(yes/no)	(yes/no)	
NL	DPA	Report/Study	On 8 February 2020, the Dutch Data Protection Authority (Dutch DPA) published its annual report on the notifications of personal data breaches it received in 2019. In 2019, 26,956 data breaches were notified to the Dutch DPA. Compared to previous years, the number of reports has risen sharply. In 2016 the Dutch DPA received 5,849 notifications, in 2017 10,009 notifications and in 2018 20,881.	Yes	Data protection  No mention of gender dimension and child rights.	The Netherlands, Dutch Data Protection Authority ( <i>Autoriteit Persoonsgegevens</i> ) (2020), <i>Meldplicht datalekken: facts &amp; figures. Overzicht feiten en cijfers 2019</i> , available at: <a href="https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/jaarcijfers_meldplicht_datalekken_2019.pdf">https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/jaarcijfers_meldplicht_datalekken_2019.pdf</a>
NL	DPA	Report/Study	On 17 February, the Dutch Data Protection Authority (Dutch DPA) published a document on the supervision of artificial intelligence ('AI') and algorithms. The document outlines that there is an increasing need for the supervision of AI and algorithms and clarifies the role	Yes	Data protection.  No mention of gender dimension and child rights.	The Netherlands, Dutch Data Protection Authority ( <i>Autoriteit Persoonsgegevens</i> ) (2020), <i>Supervision on AI and Algorithms [Toezicht op AI &amp; Algoritmes]</i> , available at: <a href="https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/toezicht_op_ai_en_algoritmes.pdf">https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/toezicht_op_ai_en_algoritmes.pdf</a>

			<p>of the DPA in this supervision. The document highlights that the principles of lawfulness, fairness, and transparency provide a proper basis in how to handle AI and algorithms, and that certain basic conditions must be met when using algorithms that process personal data. Moreover, the document notes that data controllers must, as part of a Data Protection Impact Assessment, properly substantiate why an algorithm uses certain data, the purposes for this, and why it is necessary to work with such an algorithm. If such risks cannot be eliminated, it is mandatory to approach the Dutch Protection Authority for prior consultation and advice.</p>			
<b>NL</b>	Domestic Court		<p>On 10 April 2020, the Supreme Court of the Netherlands ruled that the license plate parking</p>	Yes	Privacy	The Netherlands, Supreme Court (Hoge Raad) (2020), Case no. 19/01440, 10 April

		<p>system in the municipality of Amsterdam is a justified interference with the right to privacy. According to the Court, the system does not violate the European Convention on Human Rights (ECHR).</p> <p>The municipality of Amsterdam uses a license plate parking system through which, the person involved, must provide the license plate of their car via the parking meter or mobile phone in order to pay parking tax. Scan cars check whether parkers have paid their payment and register the persons' data encrypted.</p> <p>If a person has not paid the tax, this encryption will be undone, and the tax official will request the registration holder's personal data from the National Road Traffic Service (RDW). The official can then impose an additional</p>		No mention of gender dimension and child rights.	2020, ECLI:NL:HR:2020:639, available at: <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2020:639">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2020:639</a>
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			<p>assessment for parking tax. One interested party found that the system violates the ECHR and infringes people's privacy. He first went to the Amsterdam Court of Appeal, which ruled that there was no violation of privacy, and then appealed. The Supreme Court ruled that the license plate parking system in Amsterdam does indeed involve interference by the municipality in private life. In this case, however, this interference is justified according to the court because "the requirement to provide the registration number can be read in the Parking Ordinance 2013 of the municipality of Amsterdam in combination with the Municipalities Act", the court ruled.</p>			
<b>NL</b>	Academia	Report/Study	This study carried out by researchers from the Tilburg University, commissioned on	Yes	Privacy, Discrimination	Keymolen, E., Noorman, M., Van der Sloot, B., Cuijpers, C., Koops, B.-J. and Zhao, B.

			<p>behalf of the Ministry of Justice and Security, discusses regulatory options for the prevention of privacy violations in the use of facial recognition. The report is based on a broad literature study into automated facial recognition technology and privacy violations. The report concludes that facial recognition technology in horizontal relationships is not yet an accomplished fact in the Netherlands; it is facial recognition "at first sight". Nevertheless, the applications that are being developed worldwide and the associated privacy risks are real. This means that Dutch society must now ask the fundamental question: "what do we find desirable when it comes to facial recognition technology in our democratic constitutional state?" This report aims to contribute to the development</p>		<p>No mention of gender dimension and child rights</p>	<p>(2020), At first sight. An explorative study into facial recognition and the privacy risks in horizontal relations [<i>Op het eerste gezicht. Een verkenning van gezichtsherkenning en privacyrisico's in horizontale relaties</i>], Tilburg, Universiteit van Tilburg, available at: <a href="https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/04/20/tk-bijlage-wodc-rapport-op-het-eerste-gezicht/tk-bijlage-wodc-rapport-op-het-eerste-gezicht.pdf">https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/04/20/tk-bijlage-wodc-rapport-op-het-eerste-gezicht/tk-bijlage-wodc-rapport-op-het-eerste-gezicht.pdf</a></p>
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		<p>of ideas and to offer guidance to the Dutch government, parliament power and enforcement organisations to opt for the most suitable regulatory option(s) in a transparent and systematic manner.</p> <p>On 20 April 2020, the Minister for Legal Protection sent a reaction on the report to the House of Representatives and outlined that a policy response would be sent during the fall of 2020. Specifically, the Minister indicated that the response would address the potential use of facial recognition applications, the privacy risks involved, and the possible regulatory options. Despite the Minister's promise no policy, nor response, was proposed or developed at the end of 2020.</p>			<p>The Netherlands, Minister for Legal Protection (<i>Minister voor Rechtsbescherming</i>) (2020), 'Aanbieding rapport 'Op het eerste gezicht' . Letter to the House of Representatives, available at: <a href="https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/20/tk-aanbieding-rapport-op-het-eerste-gezicht/tk-aanbieding-rapport-op-het-eerste-gezicht.pdf">https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/20/tk-aanbieding-rapport-op-het-eerste-gezicht/tk-aanbieding-rapport-op-het-eerste-gezicht.pdf</a></p>
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NL	Government / Parliamentary	Adopted Act	<p>On 21 April 2020, the Senate passed the Act for the Banking Information Reference Portal Act (<i>Wet verwijzingsportaal bankgegevens</i>). It took effect on 10 September 2020. The Act intends to provide that banks and other financial institutions that offer accounts with an IBAN number be connected to a portal in which the police, the special investigation services, the Public Prosecution Service, the Financial Intelligence Unit Nederland and the Tax and Customs Administration can automatically retrieve information about customers of these institutions. The Act implements Directive 2018/843. The Act has an article that stipulates that a general administrative order (<i>algemene maatregel van bestuur</i>) shall be made which provides rules concerning the</p>	No	<p>Privacy No mention of gender dimension and child rights</p>	<p>The Netherlands, Minister of Justice and Security / Minister of Finance (<i>Minister van Justitie en Veiligheid / Minister van Financiën</i>) (2020), Banking Information Reference Portal Act [<i>Wet verwijzingsportaal bankgegevens</i>], available at: <a href="https://www.eerstekamer.nl/9370000/1/j9vvkfvj6b325az/vl8ydnfwo1zz/f=y.pdf">https://www.eerstekamer.nl/9370000/1/j9vvkfvj6b325az/vl8ydnfwo1zz/f=y.pdf</a></p>
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			management of the system and the technical requirements to be met by the central electronic system and its connection to it and rules concerning the way in which claims or requests as referred are made.			
<b>NL</b>	Government / Parliamentary	National Draft Act	On 29 April 2020, the Minister of Justice and Security and the Minister for Legal Protection submitted the Bill for the Data processing by partnerships Act ( <i>Wetsvoorstel gegevensverwerking door samenwerkingsverbanden</i> ) to the House of Representatives. The aim of this bill is to improve the exchange and processing of data between authorities that cooperate with each other in combatting, for example, subversive crime, disturbances to public order, or the misuse of public money and social services. The bill intends to enable the analysis of	No	Privacy ; Data protection No mention of gender dimension and child rights.	The Netherlands, Minister of Justice and Security / Minister for Legal Protection ( <i>Minister van Justitie en Veiligheid / Minister voor Rechtsbescherming</i> ) (2020), Bill for Data processing by partnerships Act [ <i>Wetsvoorstel gegevensverwerking door samenwerkingsverbanden</i> ] , available <a href="https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/29/wetsvoorstel-regels-omtrent-gegevensverwerking-door-samenwerkingsverbanden-wet-gegevensverwerking-door-">https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/29/wetsvoorstel-regels-omtrent-gegevensverwerking-door-samenwerkingsverbanden-wet-gegevensverwerking-door-</a>

			<p>exchanged data by artificial intelligence. The draft bill has an article that stipulates that by a general administrative order (<i>algemene maatregel van bestuur</i>) rules shall be made concerning the manner in which the data will be handled including for instance rules concerning the registration, storage and destruction of data. One article of the bill the participants in the partnerships to maintain confidentiality vis-à-vis third parties about the data they process within the partnership and the results of the data processing. On 17 December 2020, the House of Representatives passed the bill.</p>			<a href="#">samenwerkingsverbanden/TK+Voorstel+van+Wet+inzake+Wet+gegevensverwerking+door+samenwerkingsverband.pdf</a>
<b>NL</b>	Government / Parliamentary	Other project	<p>On 25 June 2020, the Dutch government submitted its second update of the Digitisation Strategy to the House of Representatives (the</p>	No.	<p>Privacy ; Data protection No mention of gender</p>	<p>The Netherlands, Ministry of Economic Affairs and Climate Policy (<i>Ministerie van Economische Zaken en Klimaat</i>) (2020), Dutch digitalisation</p>

		<p>first edition was submitted in 2018). This strategy outlines the plans of the Dutch government to prepare the authorities, corporations and society in general for the digital future. It pays specific attention to AI and big data.</p> <p>The government has formulated the strategy in a broad sense. It stresses the following priorities in 2020: (1) Artificial Intelligence enables the Netherlands to capitalise on the social and economic opportunities offered by AI and to safeguard public interests in AI and thus contribute to prosperity and well-being; (2) Data sharing and access to data. Making data available and sharing data in order to improving existing products and services; (3) To improve the digital skills of citizens and</p>	dimension and child rights	<p>strategy 2020 [<i>Nederlandse Digitaliseringsstrategie 2020</i>] , available at:</p> <p><a href="https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/06/25/nederlandse-digitaliseringsstrategie-2020/Nederlandse+Digitaliseringsstrategie+2020.pdf">https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/06/25/nederlandse-digitaliseringsstrategie-2020/Nederlandse+Digitaliseringsstrategie+2020.pdf</a></p>
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			improve the accessibility of services ; (4) To make the government's digital services safe and user-friendly; (5) To improve the digital resilience of government, citizens and businesses in digitisation; (6) To increase connectivity.			
NL	Independent State Institution	Report/study	On 30 June 2020, the Assessment Committee on the Use of Powers ( <i>Toetsingscommissie Inzet Bevoegdheden</i> ) or TIB published its first annual report covering the period from 1 May 2019 to 1 April 2020. The TIB assesses under the Act on Intelligence and Security Services 2017 all requests by the General Intelligence and Security Service ( <i>Algemene Inlichtingen en Veiligheidsdienst</i> ) or AIVD and the Military Intelligence and Security Service ( <i>Militaire Inlichtingen- en</i>	Yes	Privacy No mention of gender dimension and child rights	The Netherlands, Assessment Committee on the Use of Powers ( <i>Toetsingscommissie Inzet Bevoegdheden</i> ) (2020), Annual report 2019/2020 [Jaarverslag 2019/2020, available] at: <a href="https://www.tib-ivd.nl/binaries/tib/documenten/jaarverslagen/2020/06/30/jaarverslag-2019-2020/TIB+Jaarverslag+2019-2020.pdf">https://www.tib-ivd.nl/binaries/tib/documenten/jaarverslagen/2020/06/30/jaarverslag-2019-2020/TIB+Jaarverslag+2019-2020.pdf</a>

		<p><i>Veiligheidsdienst</i>) or MIVD for intercepting and storing internet cable traffic which are authorised by either the Minister of Interior and Kingdom Relations or the Minister of Defence.</p> <p>From 1 May 2019 to 1 April 2020, the TIB assessed or reviewed 2,355 requests from AIVD and MIVD. In 1.7 percent of the AIVD's requests, the TIB ruled that the Minister of Interior and Kingdom Relations had granted the permission unlawfully. In the case of the MIVD, where Defence Minister of Defence assesses the requests, 3.18 percent of the requests were wrongly approved.</p> <p>The main reasons for assessing requests as unlawful were because of incorrect information provided by the AIVD and MIVD, lack of</p>			
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			proportionality and targeting for some bulk hacks, extension of the interception of data by cable.			
<b>NL</b>	Academia	Report/s tudy	This study examines the following questions: What opportunities and risks exist in algorithmic decision-making in relation to the protection and realization of public values and interests, and are the current legal frameworks sufficiently future proof to realize opportunities and prevent the occurrence of identified risks or mitigate the consequences of such risks? Public values and interests are operationalised by the means of three fundamental rights: the right to data protection, the right to non-discrimination and the right to legal protection. This study consists out of three case studies in the following areas: moderation, self-driving cars,	Yes	Data protection; Non-discrimination; Access to Justice. No mention of gender dimension and child rights	Kulk, S. and Van Deursen (2020), Legal aspects of algorithmic decision-making. An exploratory study [ <i>Juridische aspecten van algoritmen die besluiten nemen. Een verkennend onderzoek</i> ], Utrecht, Universiteit Utrecht - Montaigne Centrum voor Rechtsstaat en Rechtspleging, available at: <a href="https://www.wodc.nl/binaries/2947_volledige_tekst_tcm28-452340.pdf">https://www.wodc.nl/binaries/2947_volledige_tekst_tcm28-452340.pdf</a>

			<p>the judicial system and the collection of traffic fines. The findings from this study suggest that it is not worthwhile setting up legal frameworks to focus on algorithmic decision-making in a general sense. The current general frameworks appear to have no significant shortcomings or structural problems when it comes to protecting the studied public values and interests. Where problems are experienced, these should be addressed as far as possible in relation to the domain in which they occur.</p>			
<b>NL</b>	Government / Parliamentary	Other projects	<p>Letter by the Minister of Legal Protection to the House of Representatives as a draft response to the Policy Plan made by a Member of Parliament Middendorp in 2019. The letter elaborates on the four policy</p>	Yes	<p>Privacy ; Discrimination No mention of gender dimension and child rights</p>	<p>The Netherlands, Minister for Legal Protection (<i>Minister voor Rechtsbescherming</i>) (2020), 'Draft response to policy plan 'Grip on algorithms' ['Conceptreactie op initiatiefnota "Menselijke grip op algoritme"'], Letter to House</p>

			<p>recommendations in the plan: (1) to stimulate cooperation between authorities on policies towards algorithms within and outside the Netherlands; (2) to create transparency and to raise awareness about algorithms; (3) to provide people with tools that make them resilient online; (4) to create a task force that makes proposals for a supervisory framework that provides for insight but allows innovation.</p>			<p>of Representatives, 20 April 2020, available at: <a href="https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/20/tk-conceptreactie-op-initiatiefnota-menselijke-grip-op-algoritme/tk-conceptreactie-op-initiatiefnota-menselijke-grip-op-algoritme.pdf">https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/20/tk-conceptreactie-op-initiatiefnota-menselijke-grip-op-algoritme/tk-conceptreactie-op-initiatiefnota-menselijke-grip-op-algoritme.pdf</a></p> <p>Middendorp, J. (2019), 'Grip on algorithms' ['Menselijke grip op algoritmen'], Policy Plan Member of House of Representatives, 29 May 2019, Parliamentary document 35212 No. 2., available at: <a href="https://zoek.officielebekendmakingen.nl/kst-35212-2.pdf">https://zoek.officielebekendmakingen.nl/kst-35212-2.pdf</a></p>
<b>NL</b>	Independent State Institution	Report / study	<p>Exploratory literature study on how the use of algorithms in recruitment and selection on the labour market can lead to discrimination. This literature study describes two distinguished types of</p>	Yes	<p>Discrimination Gender dimension addressed; child rights</p>	<p>The Netherlands Institute for Human Rights (<i>College voor de Rechten van de Mens</i>) (2020), When computers assess your cv, who assesses then the computers? Algorithms and discrimination in recruitment</p>



			discrimination by algorithms: bias in the algorithm and bias in the data. It concludes with recommendations on how to prevent discrimination by algorithms.		are not addressed	and selection [ <i>Als computers je CV beoordelen, wie beoordeelt dan de computers? Algoritmes en discriminatie bij werving en selectie</i> ], available at: <a href="https://publicaties.mensenrecht.nl/file/d0530ac3-7ccd-4a85-8049-5f8f016479c6.pdf">https://publicaties.mensenrecht.nl/file/d0530ac3-7ccd-4a85-8049-5f8f016479c6.pdf</a>
<b>NL</b>	Government / Parliamentary	National Draft Act	On 9 June 2020, the House of Representatives passed the bill for an Act amending the Act on Intelligence and Security Services 2017 ( <i>Wet op de inlichtingen- en veiligheidsdiensten 2017</i> ). It now is under review of the Senate. The Act on Intelligence and Security Services 2017, which already passed Dutch parliament, was rejected by a consultative referendum on 21 March 2018 and the government decided to amend the Act. Simultaneously, the Act in its unaltered form took effect on 1 May 2018. The	No.	Privacy ; Data protection  No mention of gender dimension and child rights	The Netherlands, House of Representatives ( <i>Tweede Kamer der Staten-Generaal</i> ) (2020), Vote on the Bill for the Act amending the Act on Intelligence and Security Services 2017 [ <i>Stemmingen Wet op de inlichtingen en veiligheidsdiensten</i> ], available at: <a href="https://www.tweedekamer.nl/downloads/document?id=3c753491-3ef8-4865-8842-6e9aad35b4d6&amp;title=Stemmingen%20Wet%20op%20de%20inlichtingen-%20en%20veiligheidsdiensten.pdf">https://www.tweedekamer.nl/downloads/document?id=3c753491-3ef8-4865-8842-6e9aad35b4d6&amp;title=Stemmingen%20Wet%20op%20de%20inlichtingen-%20en%20veiligheidsdiensten.pdf</a>

			<p>proposed amendments in this bill will therefore be introduced to the act later on. NGOs in the field of privacy were quite critical about the Act for several reasons. One of the criticism was that the Act authorises large-scale tapping into the Internet traffic and communications of citizens, but also allows for the storage of these data for many years and the unsupervised exchange of these data with foreign secret services. Most NGOs are critical about the draft bill because it does not address the criticism voiced by them against this Act. In the eyes of the NGOs, the proposed changes are mainly of cosmetic nature.</p>			<p>The Netherlands, Minister of Minister of General Affairs (<i>Minister van Algemene Zaken</i>) (2019), Bill for an Act amending the Act on Intelligence and Security Services 2017, [<i>Wetsvoorstel. Wet to wijziging van de Wet op de inlichtingen- en veiligheidsdiensten 2017</i>], Sent to House of Representatives 1 July 2019, available at: <a href="https://www.tweedekamer.nl/downloads/document?id=4a8310d5-2470-4bc8-ba5e-1a711dc9c465&amp;title=Voorstel%20van%20wet.pdf">https://www.tweedekamer.nl/downloads/document?id=4a8310d5-2470-4bc8-ba5e-1a711dc9c465&amp;title=Voorstel%20van%20wet.pdf</a></p>
<b>NL</b>	Government / Parliamentary	Adopted Act	<p>On 1 October 2020, the "Unwanted control telecommunications" Act (<i>Wet ongewenste zeggenschap Telecommunicatie</i>) took effect.</p>	No	Data protection. No mention of gender dimension	<p>The Netherlands, State Secretary for Economic Affairs and Climate Change and Minister for Justice and Security (<i>Staatssecretaris van</i></p>

			<p>This act amends the Dutch Telecommunications Act in order to protect the Dutch telecommunications sector from undue interference by adding a new chapter (14a) to the Telecommunications Act. This chapter prevents a party acting on geopolitical grounds from acquiring control of telecommunications infrastructure and services in a way that could be abused.</p> <p>The Minister of Economic Affairs and Climate Change is in the position of power to prohibit the acquisition or retention of a controlling interest in a telecommunications party, if he argues that the acquisition or retention of this control leads to a threat to the public interest.</p>		<p>and child rights</p>	<p><i>Economische Zaken en Klimaat en de Minister van Justitie en Veiligheid</i>) (2020), Wet van 20 mei 2020 tot wijziging van de Telecommunicatiewet met betrekking tot ongewenste zeggenschap in telecommunicatiepartijen (<i>Wet ongewenste zeggenschap telecommunicatie</i>), <i>Staatsblad van het Koninkrijk der Nederlanden</i>, Vol 2020, Nr 165. <a href="https://zoek.officielebekendmakingen.nl/stb-2020-165.html">https://zoek.officielebekendma kingen.nl/stb-2020-165.html</a></p>
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<p><b>NL</b></p>	<p>Government / Parliamentary</p>	<p>National Draft Act</p>	<p>From to 20 May to 14 June, the public consultation for the draft bill for Data Protection Collective Act (<i>Verzamelwet gegevensbescherming</i>) took place. This draft bill intends to amend the Act Implementing the GDPR and other laws. The Bill considers, among other things, the introduction of new legal grounds for the processing of special categories of personal data for accountants, health associations, and fraud prevention, and to clarify authorised purposes for the use of biometric data. Proposed amendments in this draft bill are: legal ground for auditors to process special categories of personal data; legal grounds for automated transaction monitoring, legal grounds for processing health data without explicit consent; legal ground for trustees to process special</p>		<p>Data protection / Privacy.</p> <p>Child rights mentioned.</p> <p>No mention of gender dimension</p>	<p>The Netherlands, Minister for Legal Protection and Minister of Interior and Kingdom Relations (2020), Draft bill for Data Protection Collective Act [<i>Wijziging van de Uitvoeringswet Algemene verordening gegevensbescherming en enkele andere wetten in verband met het stroomlijnen en actualiseren van het gegevensbeschermingsrecht (Verzamelwet gegevensbescherming)</i>], available at: <a href="https://www.internetconsultatie.nl/verzamelwetgegevensbescherming/document/5794">https://www.internetconsultatie.nl/verzamelwetgegevensbescherming/document/5794</a></p>
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			<p>categories of personal data and other sensitive personal data; legal ground for processing personal data to trace drivers or recover fines; clarification of authorised purposes to process biometric data; generic possibility to restrict data subject rights under strict conditions; data subject rights to rectify and erase no longer apply to non-profit publicly accessible archives; independent rights for children of 12 years and older.</p>			
<b>NL</b>	DPA	Report/s tudy	<p>On 7 August 2020, the Dutch Data Protection Authority (Dutch DPA) published a report containing the initial results of its investigation into the programme smart cities. The research focuses on how Dutch municipalities process personal data in public space with sensors and other technologies and how municipalities protect</p>	Yes.	<p>Privacy ; Data Protection No mention of gender dimension and child rights</p>	<p>The Netherlands, Dutch Data Protection Authority (<i>Autoriteit Persoonsgegevens</i>) (2020), Study smart cities. Update August 2020 [<i>Onderzoek smart cities. Update augustus 2020</i>], available at: <a href="https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/onderzoek_smart_cities_update_aug_2020.pdf">https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/onderzoek_smart_cities_update_aug_2020.pdf</a></p>

			the privacy of residents and visitors. The DPA stresses that municipalities should clearly indicate what data is being processed, review and update DPIAs, and allow 14 weeks for possible prior consultation.			
<b>NL</b>	Independent State Institution	Report / study	On 28 August 2020, the Radiocommunications Agency ( <i>Agentschap Telecom</i> ) published its commissioned digital security requirements of Internet of Things ('IoT') equipment, in which it called for smart devices to include cybersecurity measures in their production and trade. In particular, the Radiocommunications Agency outlined that smart devices are often not protected against cyber-attacks and there are currently no security requirements that smart devices must meet. As a result, the Agency recommends that	Yes	Data protection / Privacy No mention of gender dimension and child rights	Meulenhoff, P., Langkemper, S. en Westerhof, W. (2020), Essential requirements for securing IoT consumer devices, Apeldoorn, Qbit Cyber Security, available at: <a href="https://www.agentschaptelecom.nl/binaries/agentschap-telecom/documenten/rapporten/2019/09/25/rapport-digitale-veiligheid-van-iot-apparatuur/Report+on+IoT+Device+Security.pdf">https://www.agentschaptelecom.nl/binaries/agentschap-telecom/documenten/rapporten/2019/09/25/rapport-digitale-veiligheid-van-iot-apparatuur/Report+on+IoT+Device+Security.pdf</a>

			manufacturers should, among other things, implement requirements such as banning standard factory passwords, automating updates, prohibiting unnecessary connections to the internet, and utilising secure internet connections.			
<b>NL</b>	Independent State Institution	Report / study	On 8 September 2020, the Review Committee for the Intelligence and Security Services ( <i>Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten</i> ) or CTIVD published its final report on how the General Intelligence and Security Service ( <i>Algemene Inlichtingen en Veiligheidsdienst</i> or AIVD) and the Military Intelligence and Security Service ( <i>Militaire Inlichtingen- en Veiligheidsdienst</i> or MIVD) implement the new Act on the Intelligence and Security	Yes.	Data protection / Privacy  No mention of gender dimension and child rights	The Netherlands, Review Committee for the Intelligence and Security Services ( <i>Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten</i> ) (2020), Progress report IV, The implementation of the Wiv 20217 [Voortgangsrapportage IV. De implementatie van de Wiv 2017], available at: <a href="https://www.ctivd.nl/binaries/ctivd/documenten/rapporten/2020/09/08/index/CTIVD+NR69+Voortgangsrapportage+IV.pdf">https://www.ctivd.nl/binaries/ctivd/documenten/rapporten/2020/09/08/index/CTIVD+NR69+Voortgangsrapportage+IV.pdf</a>

			<p>Services. The CTIVD concludes that the implementation of the act on an operational level (instructions, technical systems, internal control mechanisms) is a cause for concern. Despite their efforts over the past two years, the services here have not yet achieved enough. This occurs, for example, in research assignment-oriented interception (the dragnet) and in automated data analysis. Despite their efforts over the past two years, the services here have not yet achieved enough. This occurs, for example, in investigation-mandated interception (the so-called dragnet) and in automated data analysis. The legal safeguards in the Act are precisely aimed at the operational level and must have their effect there, so that the fundamental rights of</p>			
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			citizens are adequately protected. This underscores the necessity for both services to continue the implementation process.			
<b>NL</b>	Independent State Institution	Report study / study	<p>On 22 September 2020, the Review Committee for the Intelligence and Security Services (<i>Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten</i>) or CTIVD published a report on the collection of bulk data by hacking and the processing of these data by the General Intelligence and Security Service (<i>Algemene Inlichtingen en Veiligheidsdienst</i> or AIVD) and to the Military Intelligence and Security Service (<i>Militaire Inlichtingen- en Veiligheidsdienst</i> or MIVD). These agencies operate under the new Act on the Intelligence and Security Services that allow these two services to</p>	Yes.	Data protection No mention of gender dimension and child rights	<p>The Netherlands, Review Committee for the Intelligence and Security Services (<i>Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten</i>) (2020), Supervisory Report. On the collection of bulk data by hacking and the processing of these data by the AIVD and MIVD [<i>Toezichtsrapport Over het verzamelen van bulkdatasets met de hackbevoegdheid en de verdere verwerking daarvan door de AIVD en de MIVD</i>], available at: <a href="https://www.ctivd.nl/binaries/ctivd/documenten/rapporten/2020/09/22/rapport-">https://www.ctivd.nl/binaries/ctivd/documenten/rapporten/2020/09/22/rapport-</a></p>

			<p>collection of bulk by hacking. An important safeguard is that both services must assess data obtained in this way within one and a half years at the latest; otherwise, they must destroy all data, except the data declared relevant. This safeguard is important because it prevents the services from retaining irrelevant data for too long. This report finds that the statutory requirement of assessing the relevance of the hacked data 'as soon as possible' conflicts with the nature of bulk data sets. After all, it concerns large data collections, of which it is difficult or impossible to determine which data in advance will be relevant during the assessment period. In addition, by their nature, bulk data sets can be of operational value for more than a year and a half for the investigations of</p>			<p><a href="#">70/CTIVD+NR70+Toezichtsrapport+Bulkhacks.pdf</a></p>
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			<p>the services. Faced with this problem, the services have declared certain bulk data sets to be fully (or largely) relevant. The CTIVD assesses this practice as unlawful because in this way data on individual and organisational level which otherwise would be considered irrelevant will be declared relevant and will never be the subject of investigation by the services.</p>			
<b>NL</b>	Independent State Institution	Report study	<p>On 22 September 2020, the Review Committee for the Intelligence and Security Services (<i>Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten</i>) or CTIVD published a report on the collection of data of airline passengers by the General Intelligence and Security Service (<i>Algemene Inlichtingen en Veiligheidsdienst</i> or AIVD) and to the Military Intelligence</p>	Yes	<p>Data protection No mention of gender dimension and child rights</p>	<p>The Netherlands, Review Committee for the Intelligence and Security Services (<i>Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten</i>) (2020), Supervisory Report. On the collection and processing of passenger data of airline companies by the AIVD and MIVD [<i>Toezichtsrapport. Over het verzamelen en verder verwerken van</i></p>

			<p>and Security Service (<i>Militaire Inlichtingen- en Veiligheidsdienst</i> or MIVD). These agencies operate under the new Act on the Intelligence and Security Services, which allow them to collect data of airline passengers under their general authority. There are no special safeguards for collecting these data like the ones that exist for hacking bulk data. The AIVD and the MIVD have not classified the passenger data as a bulk data set. This should have been done because of the policies published on their websites. Partly because of this, the services have not applied enough safeguards when collecting and further processing passenger data. This is illegal. For example, there is no strict authorisation regime, as is required. In addition, no interim evaluation has taken place as to whether</p>		<p><i>passagiersgegevens van luchtvaartmaatschappijen door de AIVD en de MIVD</i>], available at: <a href="https://www.ctivd.nl/binaries/ctivd/documenten/rapporten/2020/09/22/rapport-71/CTIVD+NR71+Toezichtsrapport+Passagiersgegevens.pdf">https://www.ctivd.nl/binaries/ctivd/documenten/rapporten/2020/09/22/rapport-71/CTIVD+NR71+Toezichtsrapport+Passagiersgegevens.pdf</a></p>
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			the data is still relevant to the service. Therefore, no data have been deleted since the time of collection. During the investigation period, the AIVD database contained the passenger data of millions of people.			
<b>NL</b>	NGO	Report/study	This report examines the 'Sensing project' in the city of Roermond. In this project, the police uses data and algorithmic models to assess the risk that a crime will be committed by a certain person or at a certain location. This report analyses the design and deployment of the Sensing project based on information from the media, publicly available documents and an interview with two senior police officers, the Programme Manager for the Sensing project and the Programme Director for Digitisation and	Yes	Data protection / Privacy / Discrimination  No mention of gender dimension and child rights	Amnesty International (2020), <i>We sense trouble, Automated discrimination and mass surveillance in predictive policing in the Netherlands</i> , London, Amnesty International, available at: <a href="https://www.amnesty.nl/content/uploads/2020/09/Amnesty-International-We-Sense-Trouble-EUR-35_2971_2020.pdf?x53356">https://www.amnesty.nl/content/uploads/2020/09/Amnesty-International-We-Sense-Trouble-EUR-35_2971_2020.pdf?x53356</a>

		<p>Cybercrime. The report concludes that the Sensing project entails indiscriminate mass surveillance because it includes widespread monitoring, collection, storage and analysis of personal data without any individualised reasonable suspicion of criminal wrongdoing. It identifies serious flaws in the design of the research, recordkeeping, evaluation and databases of the Sensing project. The predictive policing system works with such generic profiles that the system creates many false positives.</p> <p>This report explains that the police presents the predictive policing system as a neutral system, guided by objective criminal data statistics, while in reality the Sensing project embodies human choices and biased data, which results in</p>			
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			amplifying and entrenching (ethnic) bias in policing.			
<b>NL</b>	Other	Report	<p>Article by the Dutch daily newspaper 'NRC' that discloses that the Dutch military set up a special data-analysing unit, the Land Information Maneuver Center (LIMC) during the start of the Corona crisis, to gain insight into the social effects of the corona crisis. The newspaper reports that the data analysed data were used to predict social unrest. Ministry of Defence replied in the article that that the LIMC does not look into the behaviour of not look at individuals because that it is not allowed to do so, that the LIMC only use open sources and that their analyses are only for internal use. 'NRC' states that their research shows something else as well: that from the start the centre</p>	No.	<p>Data protection / Privacy</p> <p>No mention of gender dimension and child rights</p>	<p>Rosenberg, E. and Berkhout, K. (2020), 'Hoe defensie de eigen bevolking in de gaten houdt', <i>NRC</i>, 15 November 2020, available at: <a href="https://www.nrc.nl/nieuws/2020/11/15/hoehetlegerzijn-eigen-bevolking-in-de-gaten-houdt-a4020169">https://www.nrc.nl/nieuws/2020/11/15/hoehetlegerzijn-eigen-bevolking-in-de-gaten-houdt-a4020169</a></p>

			shares the analyses with, for example, the antiterrorism coordinator and the National Police. The 'NRC' also states that in addition to open sources, the LIMC uses " semi-closed sources ", behavioural analyses and information from military liaisons in, for instance, hospitals and nursing homes.			
<b>NL</b>	NGO	Report	Article published by civil rights organisation Bits of Freedom which concludes that 36 IC-systems used by the Dutch police are poorly secured, This conclusion is based on an analyses of 35 internal police reports which were disclosed by using the Dutch Freedom of Information Act ( <i>Wet Openbaarheid van Bestuur</i> ). Bits of Freedom states that citizens and lawyers run "great risks" as a result and that the chance of fraud by agents	No.	Data protection / Privacy  No mention of gender dimension and child rights	Zenger, R. (2020), 'ICT-systemen politie niet op orde: iedereen de dupe', Web page, 19 November 2020m available at: <a href="https://www.bitsoffreedom.nl/2020/11/19/ict-systemen-politie-niet-op-orde-iedereen-de-dupe/#achtergrond">https://www.bitsoffreedom.nl/2020/11/19/ict-systemen-politie-niet-op-orde-iedereen-de-dupe/#achtergrond</a>



			increases. Of the 36 applications designated by the police as 'mission critical', none complies with the law and the internal guidelines of the police.			
NL	NGO	Academia	Study on the situation concerning the government's ambition to achieve a national system of cybersecurity partnerships, in which information about cybersecurity can be shared between public and private parties. It has the following overarching research question: Which target groups with regard to the non-critical parties are not yet reached, in what way would this be possible, and what needs to be done concretely to achieve this? Although the aim of a nationwide network is increasingly being achieved, there are still small and medium sized enterprises and	Yes	Data protection / Privacy  No mention of gender dimension and child rights	Brennenraedts, R., Bekkers, R., Kats, J., Hanswijk, M., Bakhyshev, R., Sahebali, W. and Jansen, R. (2020), Information exchange in a national cybersecurity system[ <i>Informatie-uitwisseling landelijk dekkend stelsel cybersecurity</i> ], Utrecht / Eindhoven, Dialogic Innovatie en Interactie / Eindhoven University of Technology, available at: <a href="https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/17/informatie-uitwisseling-landelijk-dekkend-stelsel-cybersecurity/Informatie-">https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/17/informatie-uitwisseling-landelijk-dekkend-stelsel-cybersecurity/Informatie-</a>

			<p>self-employed people who are insufficiently aware of where to turn with questions or problems with cyber security. For example, only a small group is aware of the existence of the Digital Trust Centre (DTC), while at the same time many companies indicate a need for precisely those things the DTC offers, such as a basic scan. In addition, in a more general sense, a clear need has been expressed for a central and reliable party that provides companies with information regarding cybersecurity.</p>			<a href="#">uitwisseling+landelijk+dekkend+stelsel+cybersecurity.pdf</a>
<b>NL</b>	Academic	Report	<p>Lecture held by J.J. Oerlemans on his inauguration as professor by special appointment to the chair of 'Intelligence and Law' at Utrecht University. Oerlemans works as a researcher at the Review Committee for the Intelligence and Security</p>	Yes	<p>Data protection / Privacy</p> <p>No mention of gender dimension and child rights</p>	<p>Oerlemans, J.J. (2020), Setting limits to data hunger. The protection of national security in a democratic constitutional state [<i>Grenzen stellen aan datahonger. De bescherming van de nationale veiligheid in een democratische</i></p>

			<p>Services (<i>Commissie van Toezicht op de Inlichtingen en Veiligheidsdiensten</i>) or CTIVD published a report on the collection of data of airline passengers by the General Intelligence and Security Service (<i>Algemene Inlichtingen en Veiligheidsdienst</i> or AIVD) and to the Military Intelligence and Security Service (<i>Militaire Inlichtingen- en Veiligheidsdienst</i> or MIVD). In this lecture, he argues that the massive storage of data by the intelligence services AIVD and MIVD are in violation with the right to privacy and the right to the protection of personal data. That is why the Intelligence Act of 2017 must be amended. Oerlemans stresses the risks involved concerning the use article 39 of the 2017 Act on the Intelligence and Security Services. Under this article, both services services have the</p>		<p><i>rechtsstaat</i>]. Utrecht, University Utrecht, available at: <a href="https://www.uu.nl/sites/default/files/UU%20oratiekst%20Jan-Jaap%20Oerlemans%2016%2011%202020.pdf">https://www.uu.nl/sites/default/files/UU%20oratiekst%20Jan-Jaap%20Oerlemans%2016%2011%202020.pdf</a></p>
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			authority to ask government agencies for information including bulk data without any of the safeguards that apply to hacking.			
<b>NL</b>	Independent State Institution	Report	Report by the Netherlands Institute for Human Rights on the implementation of the Act on Intelligence and Security Services 2017. The Institute notes that since the Act took effect on 1 May 2018 progress has been made on several issues and some initial concerns are addressed. However, the implementation of the Act confirms that some of the bottlenecks that the Institute mentioned earlier still exists. These bottlenecks show that for some authorities granted by the Act to the intelligence services there is not yet a good balance between these powers and the safeguards that offer protection	Yes	Data protection / Privacy  No mention of gender dimension and child rights	The Netherlands, Netherlands Institute for Human Rights ( <i>College voor de Rechten van de Mens</i> ) (2020), Observaties bij de toepassing van de Wet op de inlichtingen- en veiligheidsdiensten 2017 (Wiv 2017), available at: <a href="https://publicaties.mensenrecht.nl/file/f5cca651-0342-4e4a-8c67-868ccaa05b9b.pdf">https://publicaties.mensenrecht.nl/file/f5cca651-0342-4e4a-8c67-868ccaa05b9b.pdf</a>

			against unjustified violations of human rights.			
<b>NL</b>	Business	Report	Report by consultancy firm KPMG on how to achieve a balance between financial resources of the Dutch Data Protection Authority and the tasks it must perform. It concludes that currently the Dutch DPA does not have enough resources to fulfil its tasks. Therefore, as many as 1,850 complaints from citizens are not handled yet. Only 0.04% of the 27,800 (in 2019) complaints / reported violations lead to a sanction (for example a fine). The DPA can do barely anything with tips from citizens. Data leaks (2019: 27,000) receive too little follow-up: only 0.3% led to an investigation. The supervision of algorithms that process personal data is not getting off the ground. The DPA has	Yes	Data protection / Privacy  No mention of gender dimension and child rights	KPMG (2020), Study on tasks en financial resources DPA [ <i>Onderzoek taken en Financiële Middelen bij AP</i> ], Amstelveen, KPMG, available at: <a href="https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/kpmg-onderzoek_taken_en_middelen_ap.pdf">https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/kpmg-onderzoek_taken_en_middelen_ap.pdf</a>

			<p>insufficient capacity to impose fines. The DPA is unable to participate sufficiently in the public debate on relevant topics.</p> <p>In reaction to this study, the Dutch DPA argues that it must expand considerably in the next government term (2021-2024) to protect citizens and help companies Developments such as facial recognition, internet of things, algorithms, smartphone technology, tracking software, data trading and sexting require adequate supervision. In order to properly perform its statutory tasks, the DPA must grow from 184 FTE to 470 FTE and increases its budget to more than 66 million euros in 2025.</p>			<p>The Netherlands, Dutch Data Protection Authority (<i>Autoriteit Persoonsgegevens</i>) (2020), 'Growth DPA necessary for protection of citizens in digitizing Netherlands' [<i>Groei AP noodzakelijk voor bescherming burgers in digitaliserend Nederland</i>], Press release, 19 November, available at: <a href="https://autoriteitpersoonsgegevens.nl/nl/nieuws/groei-ap-noodzakelijk-voor-bescherming-burgers-digitaliserend-nederland">https://autoriteitpersoonsgegevens.nl/nl/nieuws/groei-ap-noodzakelijk-voor-bescherming-burgers-digitaliserend-nederland</a></p>
<b>NL</b>	Business	Report	Study on the unforeseen effects of machine learning algorithms. This study covers		Data protection / Privacy	Schermer, B., Van Ham, J. and Falkena, K.W. (2020), Unforeseen effects of machine

		<p>four cases of machine learning algorithms: algorithmic pricing, assessing the reliability of a person (fraud, creditworthiness); assessing the suitability of a person for a job (HR analytics), and assessing the the physical &amp; mental health of a person. The study identifies three root causes for the occurrence of unforeseen effects in the context of the application of machine learning algorithms: (1) an incomplete or misunderstanding of the problem; (2) the machine learning algorithm is not well equipped to deal with the complex ones environment in which it is deployed: (3) the machine algorithm is not properly fitted into a broader (socio-technical) context. To reduce the chance of unforeseen effects of machine learning algorithms, it is</p>		<p>No mention of gender dimension and child rights</p>	<p>learning algorithms [Onvoorziene effecten van zelflerende algoritmen], Amsterdam, Considerati, available at: <a href="https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/20/tk-bijlage-5-bij-kamerbrief-considerati-onderzoek-effecten-algoritmen/tk-bijlage-5-bij-kamerbrief-considerati-onderzoek-effecten-algoritmen.pdf">https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/20/tk-bijlage-5-bij-kamerbrief-considerati-onderzoek-effecten-algoritmen/tk-bijlage-5-bij-kamerbrief-considerati-onderzoek-effecten-algoritmen.pdf</a></p>
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			important to eliminate the root causes that lead to unforeseen effects. This study identifies four sets of measures that are relevant at the different stages of the model development process: organisational measures, technical measures, internal and external supervision, and the protection of the legal position of subjects (consumers).			
<b>NL</b>	Academia	Report	This study looks at which adjustments in Dutch procedural law could ensure a better and more robust embedding of Big Data in the public sector. As such, general and social interests can be protected; stakeholders can effectively assert their rights and the principles of procedural justice are respected. This study discusses procedural law in the domains of Dutch civil law, administrative law and	Yes	Access to Justice / Data protection  No mention of gender dimension and child rights	Van der Sloot, B. and Van Schendel, S. (2020), Modernisation of Dutch procedural law and Big Data: Procedural guarantees and access to justice as preconditions for a data-driven society [ <i>De Modernisering van het Nederlands Procesrecht in het licht van Big Data: Procedurele waarborgen en een goede toegang tot het recht als randvoorwaarden voor een data-gedreven samenleving</i> ],



			<p>criminal law. It concludes that, although there are some possibilities in every domain of law to raise points of general interest, they seem insufficient to adequately address the issues that Big Data brings about. That is why this study examines which procedural alternatives exist in other jurisdictions that could serve as a source of inspiration. From this study, emerge thirteen regulatory options. These options cover the regulation of Big Data processes as such, procedural safeguards and access to justice vis-à-vis data-driven processes, and the checks and balances needed in the data-driven society.</p>			<p>available at:  <a href="https://www.rijksoverheid.nl/bi-naries/rijksoverheid/documenten/rapporten/2020/11/20/tk-bijlage-4-bij-kamerbrief-procesrechtonderzoek/tk-bijlage-4-bij-kamerbrief-procesrechtonderzoek.pdf">https://www.rijksoverheid.nl/bi-naries/rijksoverheid/documenten/rapporten/2020/11/20/tk-bijlage-4-bij-kamerbrief-procesrechtonderzoek/tk-bijlage-4-bij-kamerbrief-procesrechtonderzoek.pdf</a></p>
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\*For the actors, please pick from the following suggestions:

Government/ Parliamentary

DPA

NGO/Other Non Profit

Academia

Domestic Courts

Business

Independent State Institution

Other

\*\* for the type, please pick from the following suggestions:

National Draft Acts / Adopted Acts

report/study

other projects

## Chapter 6. Rights of the child

### 1. Measures taken during the COVID 19 to ensure the well-being of children living in poverty and the protection of children from violence.

<b>Measures to address the specific vulnerabilities of children living in poverty</b>	<p>On 28 May 2020, Unicef Nederland published a report that discusses the impact of the Corona crisis on children and concludes that the government response to the economic crisis lacks a focus on children.<sup>122</sup> All financial schemes by the government are aimed to protect people against the economic impact of the Corona crisis and, as such, focus on employers or self-employed people. Moreover, the report deplores and disapproves of the lack of data on the impact of the Corona crisis on the 1, 9 million households with children in the Netherlands.</p> <p>On 28 September 2020, the State Secretary of Social Affairs and Employment sent a letter to House of Representatives, in which she announced that the government would make an extra €146 million available to tackle poverty in 2020-2022 on top of the € 80 million extra funds already made available for 2020 and the €100 million that is structurally spent each year in decreasing and preventing poverty.<sup>123</sup> Of this €146 million, €11 million will be spent specifically on the fight against child poverty (in 2020 €3 million and in 2021 €8 million).</p>
<b>Measures to protect</b>	A report by Unicef Nederland on the impact of the Corona crisis on children did not identify any specific measures

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<sup>122</sup> Unicef Nederland (2020), The Coronacris and children and youth in the Netherlands, An assessment an inventory of the impact of the corona crisis on children and young people in the Netherlands [*Coronacrisis en kinderen en jongeren in Nederland: een inventarisatie van de impact van de coronacrisis op kinderen en jongeren in Nederland*], available at: <https://files.pressmailings.com/d0/bfdbab97e54e4e941255d9ee83d686/UNC-Rapport-Coronacrisis-en-jongeren-FINAL-compleet.pdf>

<sup>123</sup> The Netherlands, State Secretary for Social Affairs and Employment (*Staatssecretaris voor Sociale Zaken en Werkgelegenheid*) (2020), 'Intensification approach debts and poverty', ['Intensivering armoede- en schuldenaanpak] Letter sent to House of Representatives, 28 September 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/09/28/intensivering-armoede--en-schuldenaanpak/Brief+TK+Intensivering+armoede-+en+schuldenaanpak.pdf>

<p><b>children from violence</b></p>	<p>to protect children from violence.<sup>124</sup> Some measures to support victims of domestic violence (including children) were taken (see below). Unicef recommends the government to provide specific options for children to report safely on child abuse and to invest in data collection on vulnerable groups of children, in order to easier identify which children, need extra help.</p> <p>On 25 April 2020, the national government started a campaign urging bystanders and victims of domestic violence to contact one of the 26 regional 'Safe at Home' organisations (the first line organisations that handle reports of domestic violence and support victims of domestic violence).<sup>125</sup></p> <p>On 25 May 2020, the 26 regional 'Safe at Home' organisations started a chat room on their websites beneficial to victims of domestic violence as they can contact these organisations more easily.<sup>126</sup></p> <p>On 23 June 2020 the 'Safe at Home organisations (<i>Veilig Thuis organisaties</i>) indicated that the number of reports of domestic violence did not increase during the lockdown.<sup>127</sup> The expectation was that the number of reports of domestic violence would increase during the lockdown; however, this is not the case. Experts cannot yet explain this discrepancy. One possibility is that professionals, such as teachers, were unable to report domestic violence while they had less contact with vulnerable families. However, although the number of</p>
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<sup>124</sup> Unicef Nederland (2020), *Coronacrisis en kinderen en jongeren in Nederland: een inventarisatie van de impact van de coronacrisis op kinderen en jongeren in Nederland*, available at:

<https://files.pressmailings.com/d0/bfdbab97e54e4e941255d9ee83d686/UNC-Rapport-Coronacrisis-en-jongeren-FINAL-compleet.pdf>

<sup>125</sup> The Netherlands, Ministry of Justice and Security / Ministry of Health, Welfare and Sport (*Ministerie van Justitie en Veiligheid / Ministerie van Gezondheidszorg, Welzijn en Sport*) (2020), 'Start landelijke campagne tegen huiselijk geweld in coronacrisis', News release, 25 April 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/04/25/start-landelijke-campagne-tegen-huiselijk-geweld-in-coronacrisis>

<sup>126</sup> The Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Gezondheidszorg, Welzijn en Sport*) (2020), 'Chatfunctie ingevoerd bij Veilig Thuis', News release, 25 May 2020, available at: <https://www.huiselijkgeweld.nl/actueel/nieuws/2020/05/25/chatfunctie-ingevoerd-bij-veilig-thuis>

<sup>127</sup> NOS (2020), 'Aantal meldingen huiselijk geweld niet toegenomen sinds corona', News release, 23 June 2020, available at: <https://nos.nl/artikel/2338256-aantal-meldingen-huiselijk-geweld-niet-toegenomen-sinds-corona.html>

	<p>reported domestic violence has not increased, the reported cases of domestic violence have been more high-risk.<sup>128</sup> 'The child helpline' (<i>Kindertelefoon</i>) received more calls during the outbreak of the Corona virus and more of these calls were under the subject violence than prior to the outbreak.<sup>129</sup></p>
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## 2. Legal and policy measures or initiatives developed about criminal proceedings

<p><b>Legislative changes</b></p>	<p>The government is working on a new Code of Criminal Procedure.<sup>130</sup> The government intends to make the new Code of Criminal procedure easier to understand compared to the current code and is meant for those working in the justice system and for members of the general public. The current code dates from 1921 has been amended many times since. The aim of the new code is to make the criminal proceedings easier to understand, improving the administration of justice by the courts, and improving the performance of the criminal justice system. The new Code consists of 8 books. Book number 6 includes special rules of criminal procedure including one chapter on regulations for prosecution of juveniles or children. Draft versions of these books have been open to submitting comments in 2018. On 7 July 2020, the government published an internal version (<i>ambtelijke versie</i>) of the complete draft Bill implementing the new Code of Criminal Procedure.<sup>131</sup></p>
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<sup>128</sup> NOS (2020), 'Aantal meldingen huiselijk geweld niet toegenomen sinds corona', news release, 23 June 2020, available at: <https://nos.nl/artikel/2338256-aantal-meldingen-huiselijk-geweld-niet-toegenomen-sinds-corona.html>

<sup>129</sup> Child Telephone (Kindertelefoon) (2020), Wat Kinderen bezighoudt in Coronatijd Hand-out periode 16 maart t/m 12 april 2020, 24 april 2020, available at: <https://www.cjg043.nl/wp-content/uploads/2020/05/Hand-Out-De-Kindertelefoon-Wat-kinderen-bezighoudt-in-coronatijd.pdf>

<sup>130</sup> The Netherlands, Government of the Netherlands (*Rijksoverheid*) (2019), 'Modernisation of the Code of Criminal Procedure', Web page, available at: <https://www.government.nl/topics/modernisation-code-of-criminalprocedure>

<sup>131</sup> The Netherlands, Ministry of Justice and (*Ministerie van Justitie en Veiligheid*) (2020), Draft bill for New Code of Criminal Procedure, Internal version, July 2020, [ Wetsvoorstel tot vaststelling van het nieuwe Wetboek van Strafvordering, Ambtelijke versie, Juli 2020],

	<p>It is scheduled that the House of Representatives will receive the bill implementing the Code in 2020. On 12 November 2020, the Minister for Legal Protection and the Minister for Justice and Security informed by letter that they expect that the bill implementing the Code will be sent to the House of Representatives at the end of 2020.<sup>132</sup> Despite this promise, as of 31 December 2020 no bill was sent to the House of Representatives.</p> <p>From July 2020 to 15 September, a draft bill on the position of residents in young offender institutions was opened for internet consultation.<sup>133</sup> The draft bill intends to improve the legal position of resident of young offender institutions. The draft bill will provide a legal basis of two new types of young offender institutions: the small-scale facilities (<i>kleinschalige voorzieningen</i>) and the national specialist facilities (<i>landelijke specialistische voorzieningen</i>). The draft specifies three regimes that will apply to these facilities: (1) the restricted closed regime; (2) the closed regime; (3) the high-security closed regime.</p> <p>In 2010, the Caribbean islands Bonaire, St Eustatius and Saba became part of the Netherlands as special public bodies. Before 2010, Bonaire, St Eustatius and Saba were part of the Netherlands Antilles. On these three islands, a special criminal code is implemented: the Criminal Code BES (<i>Wetboek van Strafrecht BES</i>). The Criminal Code BES had no separate youth justice system. On 1 August 2020,</p>
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available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/07/30/ambtelijke-versie-juli-2020-wetsvoorstel-wetboek-van-strafvordering/Ambtelijke+versie+juli+2020+wetsvoorstel+Wetboek+van+Strafvordering.pdf>

<sup>132</sup> The Netherlands, Minister for Legal protection / Minister for Justice and Security (*Minister voor Rechtsbescherming / Minister voor Justitie and Veiligheid*) (2020), '6th report on the progress on the implementation of the programme aimed at modernisation of Code of Criminal Procedure' [*Zesde voortgangsrapportage programma modernisering wetboek van strafvordering*] [*Aanpak Jeugdcriminaliteit*], Letter to the House of Representatives, 12 November 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/07/09/tk-voortgang-aanpak-jeugdcriminaliteit/tk-voortgang-aanpak-jeugdcriminaliteit.pdf>

<sup>133</sup> The Netherlands, Ministry of Health, Welfare and Sport / Ministry of Security and Justice (*Ministerie van Volksgezondheid, Welzijn en Sport / Ministerie van Justitie en Veiligheid*) (2020), Draft Bill for Act Legal Position Youth Offender Institutions [*Concept. Wet rechtspositie gesloten jeugdinstituten*], available at:

<https://www.internetconsultatie.nl/rechtspositiegeslotenjeugdhulp/document/5983>

	<p>an amendment of the Criminal Code BES took effect.<sup>134</sup> By this amendment, a new title was added to the Criminal Code BES with specific provisions concerning youth. This youth justice system introduces youth detention as a custodial sentence for juvenile offenders (i.e. under the age of eighteen at the time of the offence, also referred to as minors) and provides a legal basis for the use of diversion (out-of-court disposition).</p>
<p><b>Policy developments</b></p>	<p>On 9 March 2020, the Research and Documentation Centre or WODC of the Ministry of Justice and Security published a study considering the feasibility of a monitor on recidivism among children and young adults tried under Adolescent Criminal Law (ACL).<sup>135</sup> Adolescent Criminal Law took effect on 1 April 2014. It allows for a more flexible use of juvenile and adult criminal law sanctions against 16 to 23-year-olds. The primary focus of Adolescent Criminal Law is the use of youth sanctions against young adults from 18 to 23 years old. Prior to Adolescent Criminal Law, youth sanctions were only allowed against 18 to 21 year old young adults. The study shows that it is not feasible to measure the recidivism among minors in a reliable way because of the very low numbers of recidivism among minors. However, it is considered feasible to measure the recidivism among young adults. As part of this study, a first measurement was carried out. The recidivism measurement shows that the recidivism among young adults, tried according to juvenile criminal law, was high in the years 2014, 2015 and 2016. The three-year research concludes that the probability of recidivism is approximately 40% after one year and after three years, it is above 55%. The recidivism of young adults, tried under juvenile criminal</p>

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<sup>134</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2020), Besluit van 16 juli 2020 tot vaststelling van het tijdstip van inwerkingtreding van onderdelen van de Aanpassingswet openbare lichamen Bonaire, Sint Eustatius en Saba en het Besluit tenuitvoerlegging jeugdstrafrecht BES, Staatsblad, Vol. 2020, No 289, available at: <https://zoek.officielebekendmakingen.nl/stb-2020-289.html>

<sup>135</sup> Verweij S. and Tollenaar, N. (2020), Recidivism measurement adolescent criminal law [*Recidivemeting adolescentenstrafrecht*], The Hague, Research and Documentation Centre or WODC - Ministry of Justice and Security, available at: [https://repository.tudelft.nl/assets/uuid:960517d4-635b-443e-9773-e5b967ef6134/Mem\\_2020-1\\_Samenvatting\\_tcm28-431019.pdf](https://repository.tudelft.nl/assets/uuid:960517d4-635b-443e-9773-e5b967ef6134/Mem_2020-1_Samenvatting_tcm28-431019.pdf)

	<p>law, is higher than the recidivism of all young adults combined. This is not surprising, however, since the group of young adults, tried under juvenile criminal law, is a relatively serious group of offenders that are prone to reoffending.</p> <p>In April 2020, the Research and Documentation Centre or WODC of the Ministry of Justice and Security published a study it commissioned on a youth law monitor in the Caribbean part of the Netherlands.<sup>136</sup> On 1 August 2020, in the Caribbean part of the Netherlands, a youth justice system was implemented. The study explores the feasibility of and (pre)conditions for a quantitative and/or qualitative monitor in order to carefully follow the implementation of the system. The desirability and viability of the development of a youth justice monitor in the Caribbean part of the Netherlands have been explored based on the findings from the legal analysis, the case file analysis, the interviews, and the focus group. All respondents seem to agree that such a monitor is needed. The data collected in the current study provide a baseline for registered youth crime in the Caribbean part of the Netherlands. This can serve as a starting point to set up a monitor and to, for instance, collect the same data each year.</p> <p>On 20 May 2020, the Research and Documentation Centre or WODC of the Ministry of Justice and Security published a study on the application of the concept 'incomplete development' in Adolescent Criminal Law. ACL took effect on 1 April 2014.<sup>137</sup> It allows a more flexible use of juvenile and adult criminal law sanctions for 16 to 23-year-olds in the prosecution and trial of a young adult. The application of both a sanction from juvenile criminal law and a sanction from adult criminal</p>
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<sup>136</sup> Doekhie, J.V.O.R. et al (2020), Implementation youth criminal law in Caribbean Netherlands. An exploratory study on a youth law monitor [*Invoering jeugdstrafrecht in Caribisch Nederland. Een verkenning naar een jeugdstrafrechtmonitor*], University Leiden, available at: [https://repository.tudelft.nl/assets/uuid:7c6902a5-c56f-4a6e-a612-c10da835cc53/3044\\_volledige\\_tekst\\_tcm28-447184.pdf](https://repository.tudelft.nl/assets/uuid:7c6902a5-c56f-4a6e-a612-c10da835cc53/3044_volledige_tekst_tcm28-447184.pdf)

<sup>137</sup> Spanjaard, J. M., Filé, L. L., Noom, M. J. & Buysse, W. H. (2020), Delayed development. The concept 'incompleted development' in the application of adolescent criminal law [*Achterlopende ontwikkeling. Het begrip 'onvoltooide ontwikkeling' in de toepassing van het adolescentenstrafrecht*], Amsterdam, Spanjaard Development & Training, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/06/02/tk-bijlage-rapport-spanjaard-file-noom-buysse-2020-achterlopende-ontwikkeling/tk-bijlage-rapport-spanjaard-file-noom-buysse-2020-achterlopende-ontwikkeling.pdf>



law are possible. For people aged 18 to 23 who are suspected of a criminal offense, the question is to what extent the young adult has an 'incomplete development'. According to the explanatory memorandum to the law, in case of 'incomplete development', a sanction from juvenile criminal law is preferred instead of a sanction of adult criminal law. The operationalisation of the concept 'incomplete development' became the task of the Dutch institutions involved in criminal law. In practice, however, uncertainty remains as when to speak about 'incomplete. This study aims to provide more clarity on the concept 'incomplete development' and how it can be used in the application of adolescent criminal law. The study is based on a literature search, qualitative interviews with development scientists and with representatives of the Public Prosecution Service, the Child Care and Protection Board, the Dutch Institute for Forensic Psychiatry and Psychology, the courts, the juvenile correctional facilities, the adult correctional facilities and forensic mental health institutions. It concludes that young adults between 18 and 23 years of age are not 'fully' or 'completely developed'. The development is still going on and will continue. This applies just as much to both youth who have committed crimes and those who have not. Incomplete and completed development are therefore not the correct concepts for considering whether sanctions from juvenile criminal law or adult criminal law should be applied. Since development is perpetuated, it makes more sense to ask whether and to what extent there is developmental delay and whether the adolescent can and wants to develop himself further. The current instruments of the Public Prosecution Service, the Probation Service and the Dutch Institute for Forensic Psychiatry and Psychology are insufficiently in line with the intentions of adolescent criminal law and require adjustment. This study provides for a list of thirteen dimensions and signals, which can be used in the adjustment of instruments or the development of new instruments.

On 9 June 2020, the Minister for Legal Protection sent a study to the House of Representatives on youth care in

	<p>the criminal law system.<sup>138</sup> This study focuses on the mechanisms in counselling and the implementation of youth care in the criminal law framework. It shows bottlenecks in how the organisations involves cooperate and bottlenecks in how the two legal systems (the Youth Act and Criminal Law) relate to each other. Because of these bottlenecks, only the options in youth care which are available are provided. These are not necessarily the best options. Measures have to be taken to guarantee that the best available option of youth care is provided to children and youth convicted of crime.</p>
<p><b>Other measures or initiatives</b></p>	<p>On 28 January 2020, the Council for the Administration of Criminal Justice and Protection of Juveniles (<i>Raad voor Strafrechtstoepassing en Jeugdbescherming</i>) published a report on underage children in police cells.<sup>139</sup> This report was published on recommendation of the Minister for Legal Protection. Currently, minors suspects are detained in a regular police cell during the investigation of the offence. Detention in a police cell can last up to three days and 18 hours before the court decides on the prosecution. The Council believes that in the first phase of the criminal process the judicial authorities should take of the interests of minors more into account. This means that the detention of minors should take place as little as possible and should last as short as possible. That is why the Council advises that minors suspects may be held in for a maximum of 24 hours. After this, the court will decide whether the minor will be released or placed in pre-trial detention. In addition, the Council advices not to detain minors in a police cell, but in a more child-friendly alternative location.</p> <p>On 2 April 2020, the Ombudsman for Children published a report about an investigation on a 17-year old boy who</p>

<sup>138</sup> Andersson Elffers Felix (2020), Youth care in criminal law : Bottlenecks in counselling and implementation and possible solutions [*Jeugdhulp in strafrechtelijk kader : Knelpunten in de advisering en tenuitvoerlegging en eerste oplossingsrichtingen*], Utrecht, Andersson Elffers Felix, available at:

[https://www.dji.nl/binaries/TK%20Bijlage%20%20AEF%20onderzoek%20naar%20jeugdhulp%20in%20strafrechtelijk%20kader\\_tcm41-456481.pdf](https://www.dji.nl/binaries/TK%20Bijlage%20%20AEF%20onderzoek%20naar%20jeugdhulp%20in%20strafrechtelijk%20kader_tcm41-456481.pdf)

<sup>139</sup> The Netherlands, Council for the Administration of Criminal Justice and Protection of Juveniles (*Raad voor Strafrechtstoepassing en Jeugdbescherming*) (2020), *Minderjarigen in een*

*politiecel. Een advies over duur, verblijf en alternatieve locaties*, available at:

<https://www.rsj.nl/binaries/rsj/documenten/rapporten/2020/01/29/advies-over-minderjarigen-in-een-politiecel/Minderjarigen+in+een+politiecel+def.pdf>

	<p>was put into a police cell.<sup>140</sup> He was arrested after he and his friends were refused entry to a nightclub in Rotterdam. The boy then made an insulting comment. The police arrested him and took him to the police station. Because of his difficult behaviour, the police put him in isolation for half an hour to cool off. The Ombudsman decided that minors do not belong in an isolation cell. If the police arrests minors, they must be prevented from ending up in isolation.</p> <p>On 9 July 2020, the Minister for Legal protection (<i>Minister voor Rechtsbescherming</i>) sent a letter <sup>141</sup> to the House of Representatives on the progress made on the implementation of the approach (plan) on a more effective juvenile crime strategy which was launched in 2019<sup>142</sup>. One goal of this approach is a greater variation of young offender institutions. At this very moment, there is only one type of institution: The Correctional Institution for Juvenile Offenders (<i>de justitiële jeugdinstellingen</i>). As part of the approach, the government is introducing two new types of institution: five small-scale facilities (<i>kleinschalige voorzieningen</i>) and national specialist facilities (<i>landelijke specialistische voorzieningen</i>). The purpose of the small-scale facilities is to allow young people to maintain greater connection with their life outside the institution during their detention. 5 of such facilities is planned. The letter informs that in Amsterdam the small-scaled facility set up as part of a pilot continues successfully. The small-scale facility in the southern part of the Netherlands opened in April 2020. In 2021, small-scale facilities will be opened in Rotterdam, in The Hague and in the northern part of the country. The current Correctional Institutions for Youth Offenders will be converted into</p>
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<sup>140</sup> The Netherlands, Ombudsman for Children (Kinderombudsman) (2020), Afkoelen in een isoleercel. Nummer: KOM002/2020, available at: <https://www.dekinderombudsman.nl/publicaties/rapport-onderzoek-kinderombudsman-afkoelen-in-de-isoleercel>

<sup>141</sup> The Netherlands, Minister for Legal protection (*Minister voor Rechtsbescherming*) (2020), 'Progress Approach Youth Criminality' [*Voortgang Aanpak Jeugdcriminaliteit*], Letter to the House of Representatives, 9 July 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/07/09/tk-voortgang-aanpak-jeugdcriminaliteit/tk-voortgang-aanpak-jeugdcriminaliteit.pdf>

<sup>142</sup> The Netherlands, Minister for Legal protection (*Minister voor Rechtsbescherming*) (2019), 'Approach Youth Criminality' [*Aanpak Jeugdcriminaliteit*], Letter to the House of Representatives, 28 June 2019, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2019/06/28/brief-tweede-kamer-aanpak-jeugdcriminaliteit/TK+Aanpak+Jeugdcriminaliteit.pdf>

	<p>national specialist facilities. This then becomes the place where juvenile offenders serve long sentences, with more complex issues (e.g. youth with serious behavioural problems). Part of the programme for these youth in particular, is more intensive care and a higher level of security. The letter informs that some pilots have been started as part of the conversion of the present Correctional Institutions for Young Offenders into national specialist facilities.</p> <p>On 9 September 2020, the Research and Documentation Centre or WODC of the Ministry of Justice and Security published a study on underage victims and to what extent international regulations in regards to treatment have been implemented in national legislation and in practice.<sup>143</sup> This study is based on desk research and qualitative interviews with officials. It concludes:</p> <p>(1) With regard to participation: According to international regulations and national law, an underage victim must be able to fully participate in criminal proceedings. Practice shows that the possibilities for this purpose are increasing. Underage victims, like adult victims, have various rights, such as the right to assistance, to give their opinion, the right to information and the right to be heard. They are also entitled to (effective) support from organisations. When it comes to the right to assistance, it is possible to refuse assistance by police, public prosecutor, examining magistrate or judge in the Netherlands (ex article 51c of the Dutch Code of Criminal Procedure). In practice, the support for minors during the reporting process could be even better. Partners such as lawyers and victim support are involved relatively late in the criminal proceedings.</p> <p>(2) With regard to information, recognition and treatment. In Dutch legislation, it is laid down that underage victims have a right to be informed. Contrary to what is prescribed internationally, Dutch police and justice regulations make a distinction between underage victims under the age of 12 and those over the age of</p>
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<sup>143</sup> Sondorp, J.E. and Hoogeveen, C.E. (2020), The protection of underage victims. Implementation of international regulation in national legislation and practice [*De bescherming van minderjarige slachtoffers; Implementatie van internationale voorschriften in nationale wet- en regelgeving in de praktijk*], Woerden, Van Montfoort, available at: [https://www.wodc.nl/binaries/3041\\_volledige\\_tekst\\_tcm28-452501.pdf](https://www.wodc.nl/binaries/3041_volledige_tekst_tcm28-452501.pdf)

	<p>12. Under 12 years of age, the information should only be available to the legal representatives. Those over the age of 12 are asked who should receive the information. This standard deserves attention since it is unclear whether the Netherlands sufficiently guarantees the interests of minors under 12 and if this complies with international legislation. Both international regulations and Dutch legislation prescribe that information must be comprehensible to the minor, both at language and at development level. In practice, respondents argue this could be done more efficiently. According to international regulations, hearings should be kept to a minimum. In practice, this often fails. According to international regulations, professionals who work with underage victims must receive specialised training. At national level, this is insufficiently seen in regulations. Although investments have already been made into practice in training and skills, improvements are possible in particular with regard to the capacity and deployment of these specialists. (3)</p> <p>With regard to protection, care and support. In Dutch practice, steps still need to be taken to comply with the international rules regarding the protection of the victim's privacy (anonymity).</p> <p>(4) With regard to injury and recovery. According to the 'UN general comment no. 6 of CRC', Member States should strive for culturally appropriate, gender-specific mental health care and qualified psychosocial counselling. The authors of this study do not see any specific provisions at national level. Moreover, there is also limited knowledge about this in practice. Being compensated in the Netherlands is not always easy. Several steps are required in the process (including participate as an injured party, assistance is needed) to actually be able to get the claim for compensation.</p>
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# Chapter 7. Access to justice including crime victims

## 1. Victims' Rights Directive

A bill extending the rights of the victim in the Criminal Code and the Code of Criminal Proceedings is under review of the House of Representatives.<sup>144</sup> The bill makes it mandatory for defendants accused of serious violent crimes or serious sex crimes to be present at the trial when victims make their victim statement; entitles the stepfamily of the victim to make a victim impact statement during trial; makes it mandatory that victims will be consulted on the special conditions that can be attached to the conditional end of the detention under hospital orders (TBS) imposed on a person convicted for a serious violent or sex crime. On 13 October 2020, the House of Representatives passed the bill.<sup>145</sup> The bill is currently under review of the Senate.

On 5 June 2020, the Minister for Legal Protection informed the House of Representatives that he would establish an advisory body, which looks into the system of victim compensation. The present system has grown organically over time.<sup>146</sup> Because of that, a system has emerged that is considered not to be just and balanced in all aspects. Small efforts to repair the current, damaged system do not offer any solution. The advisory body will look at a complete revision of the system.

The government is working on a new Code of Criminal Procedure.<sup>147</sup> The government intends to make the new Code of Criminal Procedure more comprehensible for those working in the justice system and for the general public.

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<sup>144</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2020), 'Wetsvoorstel uitbreiding slachtofferrechten', available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2019/11/27/wetsvoorstel-wet-uitbreiding-slachtofferrechten/Voorstel+van+Wet+uitbreiding+slachtofferrechten+nader+rapportfase.pdf>

<sup>145</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2020), 'Overzicht van stemmingen in de Tweede Kamer, 13 October 2020', available at: [https://www.eerstekamer.nl/behandeling/20201013/stemmingsoverzicht\\_tweede\\_kamer\\_3/document3/f=/v/cw/jnn4/exo1.pdf](https://www.eerstekamer.nl/behandeling/20201013/stemmingsoverzicht_tweede_kamer_3/document3/f=/v/cw/jnn4/exo1.pdf)

<sup>146</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2020), 'Adviescollege schadestelsel voor slachtoffers van strafbare feiten', Letter to House of Representatives, 4 June 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/06/05/tk-adviescollege-schadestelsel-voor-slachtoffers-van-strafbare-feiten/tk-adviescollege-schadestelsel-voor-slachtoffers-van-strafbare-feiten.pdf>

<sup>147</sup> The Netherlands, Government of the Netherlands (*Rijksoverheid*) (2019), 'Modernisation of the Code of Criminal Procedure', Web page, available at: <https://www.government.nl/topics/modernisation-code-of-criminalprocedure>

The new Code consists of eight books. In chapter 5 of book 1, the rights of the victim are laid down. Draft versions of these books have been open to submitting comments in 2018. On 7 July 2020, the government published an internal version (*ambtelijke versie*) of the complete draft Bill implementing the new Code of Criminal Procedure.<sup>148</sup> It was scheduled that the House of Representatives will receive the bill implementing the Code in 2020 but as of 31 December 2020, no bill was sent to the House of Representatives.

The present Code dates from 1921 and has been amended many times ever since.<sup>149</sup> Since 1992, the position of the victim has been strengthened considerably. Chapter 5 of book 1 will replace the new Code chapter IIIA of book 1 of the current Code (about the legal position of the victim). The first title of this chapter includes a definition of the concept of victim. The second title contains a number of articles in which the rights of the victim are laid down. The third title elaborates on the claim for compensation, with which the injured party can join the criminal proceedings. The fourth title contains the legal remedies that can be used by the victims. The new Code adds some new rights and remedies. An important improvement in the legal position of victims is the possibility to separately deal with the claim for compensation submitted by the victim as an injured party after the closing of the criminal case. In this stage (of separate treatment), the court can impose compensation measures. A declaration of inadmissibility of the claim due to the disproportionality of the burden on the criminal proceedings is no longer an issue in that case. In the new Code, victims are granted the opportunity, as a directly interested party, to complain about the lack of prosecution as well as about the lack of investigation.

On 9 September 2020, the Research and Documentation Centre or WODC of the Ministry of Justice and Security published a study that maps to what extent international regulations regarding the treatment and position of underage victims have been implemented in national legislation and in practice.<sup>150</sup> This study

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<sup>148</sup> The Netherlands, Ministry of Justice and (*Ministerie van Justitie en Veiligheid*) (2020), Draft bill for New Code of Criminal Procedure, Internal version, July 2020, [ *Wetsvoorstel tot vaststelling van het nieuwe Wetboek van Strafvordering, Ambtelijke versie, Juli 2020* ], available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/07/30/ambtelijke-versie-juli-2020-wetsvoorstel-wetboek-van-strafvordering/Ambtelijke+versie+juli+2020+wetsvoorstel+Wetboek+van+Strafvordering.pdf>

<sup>149</sup> The Netherlands, Ministry of Justice and (*Ministerie van Justitie en Veiligheid*) (2020), Explanatory Memorandum to draft bill for New Code of Criminal Procedure, Internal version, July 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/07/30/ambtelijke-versie-juli-2020-memorie-van-toelichting-wetboek-van-strafvordering/Ambtelijke+versie+juli+2020+Memorie+van+Toelichting+Wetboek+van+Strafvordering.pdf>

<sup>150</sup> Sondorp, J.E. and Hoogeveen, C.E. (2020), The protection of underage victims. Implementation of international regulation in national legislation and practice [ *De bescherming van minderjarige*

involves desk research and qualitative interviews with officials. It concludes: (1) With regard to participation: According to international regulations and national law, an underage victim must be able to fully participate in criminal proceedings. Practice shows that the possibilities for this purpose are increasing. Underage victims, like adult victims, have various rights, such as the right to assistance, the right to give their opinion, the right to information and the right to be heard. They are also entitled to (effective) support from organizations. When it comes to the right to assistance, it is possible to refuse assistance by police, public prosecutor, examining magistrate or judge in the Netherlands (ex article 51c of the Dutch Code of Criminal Procedure). In practice, the support for minors during the reporting process could be even better. Partners, such as lawyers and victim support, are relatively late involved in the criminal proceedings.

(2) With regard to information, recognition and treatment. In Dutch legislation, it is laid down that underage victims have a right to be informed. Contrary to what is prescribed internationally, Dutch police and justice regulations make a distinction between underage victims under the age of 12 and those over the age of 12. Under 12 years of age, the information should only be provided to the legal representatives. Those over the age of 12 are asked who should receive the information. This standard deserves attention since it is unclear whether the Netherlands sufficiently guarantees the interests of minors under 12 and if this complies with international legislation. Both international regulations and Dutch legislation prescribe that information must be comprehensible to the minor, both at language and at development level. In practice, respondents argue this could be done more efficiently. According to international regulations, hearings should be kept to a minimum. In practice, this often fails. According to international regulations, professionals, who work with underage victims, must receive specialized training. At national level, this is insufficiently seen in regulations. Although investments have already been made into practice in training and skills, there is room for improvement when it particularly comes to the capacity and deployment of these specialists.

(3) With regard to protection, care and support. In Dutch practice, steps still need to be taken to comply with the international rules regarding the protection of the victim's privacy (anonymity).

(4) With regard to injury and recovery. According to the 'UN general comment no. 6 of CRC', Member States should strive for culturally appropriate, gender-specific mental health care and qualified psychosocial counselling. The authors of this study do not see any specific provisions on this at national level. There also is little to say about this in practice. Getting a compensation in the Netherlands is not always



easy, as there are several steps required in the process (including participate as an injured party, assistance is needed) to actually be able to get the claim for compensation.

On 2 November 2020, the Minister for Legal Protection sent<sup>151</sup> an evaluation study on the Violent Offences Compensation Fund (*Schadefonds geweldsmisdrijven*)<sup>152</sup> to the House of Representatives. This study concludes that the Compensation Fund functions effectively. The lawfulness and diligence of the decisions by the Compensation Fund are deemed good. The vast majority of the victims feel that they are recognised by the Compensation Fund and experience the compensation they receive as a form of justice.

On 10 November 2020, the Minister for Legal Protection<sup>153</sup> sent a study on the compensation of crime victims<sup>154</sup> to the House of Representatives. This study explores the following questions: Which sources of compensation covers the damage suffered by crime victims? To what extent do the financial compensation of crime damage and redress from the offender actually take place? And to what extent are public costs involved? The study concludes that only limited insight can be gained into the amounts of compensation and redress that are being realised. Not all criminal offences are brought to light, this, in part, results in a lack of insight into the total damage that citizens, companies and the government experience. The main sources of compensation are private insurance, social security, the Violent Offences Compensation Fund (*Schadefonds Geweldsmisdrijven*) and, redress from the offender. Two compensation sources specifically refer to a criminal offence as a 'condition' for compensation: compensation from the Violent Offences Compensation Fund, and redress from the offender insofar as this takes

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<sup>151</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2020), 'ZBO-evaluatie Schadefonds geweldsmisdrijven', Letter to House of Representatives, 2 November 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/11/02/tk-zbo-evaluatie-schadefonds-geweldsmisdrijven/tk-zbo-evaluatie-schadefonds-geweldsmisdrijven.pdf>

<sup>152</sup> De Ridder, J. (2020), Evaluation Violent Offences Compensation Fund [*Evaluatie Schadefonds Geweldsmisdrijven. Rapport evaluatie ex artikel 39 Kaderwet ZBO*], available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/02/tk-bijlage-evaluatie-schadefonds-geweldsmisdrijven-rapport-evaluatie-ex-artikel-39-kaderwet-zbo/tk-bijlage-evaluatie-schadefonds-geweldsmisdrijven-rapport-evaluatie-ex-artikel-39-kaderwet-zbo.pdf>

<sup>153</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2020), 'WODC onderzoek 'Compensatie en verhaal van schade door strafbare feiten'', Letter to House of Representatives, 10 November 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/11/10/tk-wodc-onderzoek-compensatie-en-verhaal-van-schade-door-strafbare-feiten/tk-wodc-onderzoek-compensatie-en-verhaal-van-schade-door-strafbare-feiten.pdf>

<sup>154</sup> Hebly, M.R., Lindenbergh, S.D., Visscher, L.T. and Desmet, P.T.M. (2020), Compensation and redress of crime victims. Exploration of sources, volumes and public costs [*Compensatie en verhaal van schade door strafbare feiten. Verkenning van bronnen, volumes en publieke kosten*], Rotterdam, Erasmus Law School, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/10/tk-bijlage-rapport-wodc-onderzoek-compensatie-en-verhaal-van-schade-door-strafbare-feiten/tk-bijlage-rapport-wodc-onderzoek-compensatie-en-verhaal-van-schade-door-strafbare-feiten.pdf>

place through criminal proceedings. Here, it can be said that the total volume of compensation inherently relates to damage caused by criminal offences. Moreover, these are the compensation sources in which the government specifically invests, and therefore the public costs can be traced relatively easy. The Violent Offences Compensation Fund offers compensation up to €35,000 to victims with serious injuries because of a violent crime and to their relatives, as well as to the surviving relatives of victims of a violent crime or culpable death. The compensation is funded from general resources and, due to its subsidiary nature; it can be offset against benefits from other compensation sources. In 2017, the Compensation Fund paid out €20.5 million, and received €686,979 from the Central Fine Collection Agency (*Centraal Justitieel Incassobureau*). The implementation costs of the Compensation Fund amounted to €6,671,813 in 2017. The financial amounts have been constant over the past few years; however, an increasing number of applicants can be noticed over the last two years. If a compensation order (*schadevergoedingsmaatregel*) is imposed, the State takes over its collection through the Central Fine Collection Agency, and the victim's compensation is advanced insofar as the convicted person does not pay this payment due within eight months. In 2017, the government paid out €7,421,512 (3,531 payments) under the advance payment scheme for sexual and violent crimes and €4,090,034 (4,756 benefits) for other criminal offences. For sexual and violent crimes, 2,795 compensation orders were completely collected and 93 in part in 2017 – which raised a total of €2,955,948 – before payment was made under the advance payment scheme. For other criminal offences, this concerned 2,194 fully and 89 partially collected compensation orders prior to an advanced payment; this concerned a total amount of €1,138,116 collected from offenders.

## **2. Violence against women**

On 15 January 2020, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), an independent human rights monitoring body mandated to monitor the implementation of the Istanbul Convention, published its Baseline Evaluation Report. This report is based on evaluation visits the experts group made to the Netherlands from 11 to 15 March 2019. This visit is one of the aspects in a broader procedure to monitor the implementation by the Netherlands of the Istanbul Convention. The Baseline Evaluation Report concludes that, among the Dutch authorities, the recognition of the power imbalance between women and men and its impact on women's exposure to and experiences of violence against women has given way to a more gender-neutral approach. <sup>155</sup> GREVIO adds that such "Gender-neutral policies

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<sup>155</sup> Council of Europe, GREVIO (2020), (*Baseline*) *Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*, Netherlands, Strasbourg, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), available at: <https://rm.coe.int/grevio-report-on-netherlands/1680997253>

bear the risk of interventions by professionals that lack gender sensitivity, lead to gaps in protection and support and contribute to the re-victimisation of women.”

The draft bill amending the Criminal Code as concerns sexual offences was open for internet consultation from 12 May 2020 to 16 August 2020.<sup>156</sup> During this consultation, round organisations and citizens can submit their comments on the draft bill. The consultation round is the first stage in the Dutch legislative process. The bill introduces several new articles in the Criminal Code and redefines some of the present articles. The two most important new articles are an article criminalising having sex with others without consent and an article making sexual harassment a criminal offense, both online and in public spaces. Currently, article 242 of the Dutch Criminal Code, prohibits rape, and requires evidence of coercion. This has been interpreted to mean that the suspect deliberately causes the victim to undergo acts against their will. The Group of Experts on Action against Violence against Women and Domestic (GREVIO), in its Baseline Evaluation Report, concludes that the present article on rape in the Criminal Code is not in line with the Istanbul Convention.<sup>157</sup> The draft bill changes the phrasing of article 242 but does not amend the present article in a substantial way.<sup>158</sup> To criminalise sex against the will of the victim the draft bill introduces a new article in the Criminal Code. The new offence (sex against the will of the victim) carries a lighter penalty (maximum of 6 years imprisonment) than rape (maximum of 12 years imprisonment). Organisations like Amnesty International, Atria and the Netherlands Institute for Human Rights take issue with that. According to Amnesty International, sex against the will of the victim should not only be punishable, but should also be recognised as rape.<sup>159</sup> Amnesty calls on the Minister of Justice and Security to adjust the rape offence so that, in line with the obligation under international human rights treaties, the article in the Criminal Code on rape focuses on the lack of consent. Atria calls on the Minister to amend the present article in the Criminal Code on rape by introducing lack of consent instead of coercion as a

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<sup>156</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2019), Draft Bill on sexual offences [*Voorontwerp wetsvoorstel seksuele misdrijven*], available at:

<https://www.internetconsultatie.nl/wetseksuelemisdrijven/document/5752>

<sup>157</sup> Council of Europe, GREVIO (2020), (*Baseline*) *Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*, Netherlands, Strasbourg, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), available at: <https://rm.coe.int/grevio-report-on-netherlands/1680997253>

<sup>158</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2019), Draft Bill on sexual offences [*Voorontwerp wetsvoorstel seksuele misdrijven*], available at:

<https://www.internetconsultatie.nl/wetseksuelemisdrijven/document/5752>

<sup>159</sup> Amnesty International – Dutch Section (2020), 'Voorstel Wet seksuele misdrijven. Inbreng van Amnesty International Nederland', Letter to Minister of Justice and Security, 3 August 2020, available at: <https://www.internetconsultatie.nl/wetseksuelemisdrijven/reactie/142988/bestand>

core element of rape.<sup>160</sup> The Netherlands Institute for Human Rights argues in favour of one provision in the Criminal Code which criminalises non-consensual sex instead of two provisions (one criminalising and the other sex without consent) as laid down in the draft bill.<sup>161</sup> On 5 November 2020, the Minister of Justice and Security informed the House of the Representatives that the draft bill amending the Criminal Code as concerns sexual offences will be amended: all non-consensual sex will be punished similarly to rape in the amended draft bill.<sup>162</sup> The Minister intended to send the new draft to internet consultation in December 2020 but as of 31 December 2020, no bill was sent to House of Representatives.

The Sexual Assault Centre (*Centrum Seksueel Geweld*) annual report (2019) shows that victims of rape or sexual assault in the Netherlands are increasingly willing to seek aid shortly after they were assaulted.<sup>163</sup> In 2019 1,888 victims of sexual violence requested immediate care and/or research in the acute phase (within 7 days of the assault or rape) in one of the 16 locations of the Sexual Assault Centre. In addition, 2260 victims seek support outside the 7 days period. This adds up to 4,148 victims in 2019, compared to 3,250 victims in 2018: an increase of 28%.

The Dutch government and responsible organisations took several measures to address domestic violence as response to the COVID-19 pandemic.

On 25 April 2020, the national government started a campaign urging bystanders and victims of domestic violence to contact one of the 26 regional 'Safe at Home' organisations (the first line organisations that handle reports of domestic violence and support victims of domestic violence).<sup>164</sup>

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<sup>160</sup> Atria (2020), 'Internetconsultatie Wet seksuele misdrijven', Letter to Minister of Justice and Security, 14 August 2020, available at:

<https://www.internetconsultatie.nl/wetseksuelemisdrijven/reactie/143715/bestand>

<sup>161</sup> The Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2020), ADVIES inzake het voorontwerp van een wetsvoorstel seksuele misdrijven, available at: <https://publicaties.mensenrechten.nl/file/769f4d32-b900-46d3-ac02-9c6ef6bfe7a7.pdf>

<sup>162</sup> The Netherlands, Minister of Justice and Security (*Minister van Justitie en Veiligheid*) (2019), 'Beantwoording schriftelijk overleg zeden', Letter to House of Representatives, 5 November 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/11/05/beantwoording-schriftelijk-overleg-zeden/TK+beantwoording+schriftelijk+overleg+zeden.pdf>

<sup>163</sup> The Netherlands, Sexual Assault Centre (*Centrum Seksueel Geweld*) (2020), Annual report Sexual Assault Centre 2019 [*Jaarverslag Landelijk netwerk Centrum Seksueel Geweld 2019* ], Utrecht, Centrum Seksueel Geweld, available at: <https://www.centrumseksueelgeweld.nl/wp-content/uploads/2020/08/CSG-jaarversag-2019.pdf>

<sup>164</sup> The Netherlands, Ministry of Justice and Security / Ministry of Health, Welfare and Sport (*Ministerie van Justitie en Veiligheid / Ministerie van Gezondheidszorg, Welzijn en Sport*) (2020), 'Start landelijke campagne tegen huiselijk geweld in coronacrisis', News release, 25 April 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/04/25/start-landelijke-campagne-tegen-huiselijk-geweld-in-coronacrisis>

On 1 May 2020 the national government launched a scheme in which victims of domestic violence can use the code word 'masker 19' (mask 19) at pharmacies so staff of these pharmacies support them to contact social services.<sup>165</sup>

On 25 May 2020, the 26 regional 'Safe at Home' organisations started a chat room on their websites so victims of domestic violence can contact these organisations more easily.<sup>166</sup>

On 9 April 2020, the Sexual Assault Centre informed by a press release that the number of applications for support declined dramatically after the outbreak of the Corona virus.<sup>167</sup>

On 23 June 2020, the 'Safe at Home' organisations (*Veilig Thuis organisaties*) indicated that the number of reports of domestic violence did not increase during the lockdown.<sup>168</sup> The expectation was that the number of reports of domestic violence would increase during the lockdown; however, this is not the case. Experts cannot yet explain this discrepancy. One possibility is that professionals, such as teachers, were unable to report domestic violence while they had less contact with vulnerable families. However, although the number of reported domestic violence has not increased, the reported cases of domestic violence have been more high-risk.<sup>169</sup>

On 9 June 2020, the Minister of Legal Protection implemented a temporary trial scheme under which sexual assault victims are no longer liable themselves for costs of medical support (from 1 September 2020 to 1 September 2021).<sup>170</sup> The scheme is temporary and is intended as a trial for a later definite scheme. The scheme covers all medical expenses for anyone who contacts a Centre for Sexual

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<sup>165</sup> The Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Gezondheidszorg, Welzijn en Sport*) (2020), 'Huiselijk geweld melden via apotheek', News release, 1 May 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/05/01/huiselijk-geweld-melden-via-apotheek>

<sup>166</sup> The Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Gezondheidszorg, Welzijn en Sport*) (2020), 'Chatfunctie ingevoerd bij Veilig Thuis', News release, 25 May 2020, available at: <https://www.huiselijkgeweld.nl/actueel/nieuws/2020/05/25/chatfunctie-ingevoerd-bij-veilig-thuis>

<sup>167</sup> The Netherlands, Sexual Assault Centre (*Centrum Seksueel Geweld*) (2020), 'Minder date-rape, mogelijk meer misbruik thuis en online door COVID-19', Press Release, 9 April 2020, available at: <https://www.centrumseksueelgeweld.nl/minder-date-rape-mogelijk-meer-misbruik-thuis-en-online-door-covid-19/>

<sup>168</sup> NOS (2020), 'Aantal meldingen huiselijk geweld niet toegenomen sinds corona', News release, 23 June 2020, available at: <https://nos.nl/artikel/2338256-aantal-meldingen-huiselijk-geweld-niet-toegenomen-sinds-corona.html>

<sup>169</sup> NOS (2020), 'Aantal meldingen huiselijk geweld niet toegenomen sinds corona', news release, 23 June 2020, available at: <https://nos.nl/artikel/2338256-aantal-meldingen-huiselijk-geweld-niet-toegenomen-sinds-corona.html>

<sup>170</sup> The Netherlands, Minister for Legal Protection (*Minister voor Rechtsbescherming*) (2020), 'Tijdelijke regeling vergoeding eigen risico zorgverzekering slachtoffers seksueel geweld', Staatscourant, 29 June 2020, available at: <https://zoek.officielebekendmakingen.nl/stcrt-2020-39948.html>

Violence within seven days of being attacked. Until now, the state has paid for the costs of investigating the crime, while counselling and tests for sexually transmitted diseases have been charged to the victim's health insurance. The trial scheme is designed to remove a barrier that deterred some victims from reporting sexual offences. The Minister stresses that the scheme only applies to victims of sexual violence in the so-called acute phase, where the incident took place no more than seven days ago.<sup>171</sup> The Minister does also recognize victims who report sexual violence or abuse that took place longer ago. However, the present scheme focuses exclusively on victims in the acute phase. This has to do with the urgency to immediately seek medical, psychological and forensic help in the first days after the incident.

On 23 June 2020, the Inspectorate for Justice and Security published a report on how police officers specialised in sex offenses deal with victims of sexual crimes are and how victims themselves experience their contact with these police officers.<sup>172</sup> Victims of sexual assaults and crimes who go to the police are generally positive about their contact with the police officers. However, sometimes victims have negative experiences. These arise when methodology of the police officers does not meet the needs and expectations of the victims. This can lead to friction, the study reports. For instance, when the police interviews the victim for the first time, officers may place a lot of emphasis on the negative consequences for the victim if she reports the crime. Therefore, some victims refrain from reporting. If more attention would be paid to this specific topic, police officers could prevent this friction. One of The Inspectorate's recommendations towards the police is to closely consider it in the working method.

In the National Budget for the year 2021, the government has structurally made additional resources available to the municipalities to tackle domestic violence, including €38.6 million annually for the 'Safe at Home' organisations, €14 million

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<sup>171</sup> The Netherlands, Minister for Legal Protection (Minister voor Rechtsbescherming) (2020), 'Tijdelijke regeling vergoeding eigen risico zorgverzekering slachtoffers seksueel geweld', Staatscourant, 29 June 2020, available at : <https://zoek.officielebekendmakingen.nl/stcrt-2020-39948.html>

<sup>172</sup> The Netherlands, Inspectorate of Justice and Security (*Inspectie Justitie en Veiligheid*) (2020), Different perspective. Investigation in how police officers specialised in sex crimes deal with the victims [*Verschillende perspectieven/ Een onderzoek naar de taakuitvoering van zedenrechercheurs en hun bejegening van slachtoffers*], available at: <https://www.inspectie-jenv.nl/binaries/inspectie-venj/documenten/rapporten/2020/06/23/rapport-verschillende-perspectieven/20200623+DEF+Rapport+Verschillende+perspectieven.pdf>

for the creation of additional places in women's shelters and €1.5 million for the Sexual Assault Centre.<sup>173</sup>

On 12 November 2020, the Verwey-Jonker institute published a longitudinal study on partner violence and/or child abuse cases in families who have been reported to one of the 'Safe at home' organisations (*Veilig Thuis organisaties*).<sup>174</sup> The study followed 574 families (n=633 parents and 978 children). In 57% of the families, both partner violence and violence against children took place. For this study, families (parents and children) completed a questionnaire at three different moments during an 18-month period. In-depth interviews were held with 74 families. Over 50% of all the cases, the home situation was still pronounced unsafe 18 months after the report to the 'Safe at Home' organisations'. In only 29% percent of the cases, the violence stopped completely.

On 21 December 2020, Statistics Netherlands (*Centraal Bureau voor de Statistiek*) published the results of their first edition on the Prevalence Monitor Domestic Violence and Sexual Violence (*Prevalentiemonitor Huiselijk Geweld en Seksueel Geweld*).<sup>175</sup> This edition is based on an internet survey among Dutch people of 16 years and older). The survey was conducted March through April 2020. About a week after the start of data collection, the so-called "lockdown" was declared due to the corona pandemic. The possible effects of this lockdown on the investigation is be discussed in this publication.

The monitor specifies the following acts of domestic violence and sexual violence: verbal aggression in the domestic circle, physical violence in the domestic circle, coercive control in the domestic circle, stalking by an ex-partner, non-physical sexual harassment, physical sexual violence, and online sexual harassment.

This first edition of the monitor found that 8% of the respondents reported having been victim of one or more acts of domestic violence in the 12 months prior to the survey. This adds up to 1.2 million people. Verbal aggression is not included in the

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<sup>173</sup> The Netherlands, National Government (*Rijksoverheid*) (2020), 'Domestic violence in the National Budget 2021' [*Huiselijk geweld in de Rijksbegroting 2021*], News release , 15 September 2020, available at: <https://www.huiselijkgeweld.nl/actueel/nieuws/2020/09/15/huiselijk-geweld-in-de-rijksbegroting-2021>

<sup>174</sup> Steketee, M., Tierolf, B., Lünemann, K. and Lünemann, M. (2020), A matter of patience. Can Domestic Violence and Child Abuse Really Stop? [*Kwestie van lange adem. Kan huiselijk geweld en kindermishandeling echt stoppen?*], Utrecht, Verwey-Jonker Instituut, available at: [https://www.huiselijkgeweld.nl/binaries/huiselijkgeweld/documenten/rapporten/2020/11/12/kwestie-van-lange-adem/216037\\_Kwestie\\_van\\_lange\\_adem-WEB.pdf](https://www.huiselijkgeweld.nl/binaries/huiselijkgeweld/documenten/rapporten/2020/11/12/kwestie-van-lange-adem/216037_Kwestie_van_lange_adem-WEB.pdf)

<sup>175</sup> Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2020), Prevalence Monitor Domestic Violence and Sexual Violence 2020 [*Prevalentiemonitor Huiselijk Geweld en Seksueel Geweld 2020*], available at: <https://www.huiselijkgeweld.nl/binaries/huiselijkgeweld/documenten/publicaties/2020/12/21/prev-alentiemonitor-huiselijk-geweld-en-seksueel-geweld-2020/Prevalentiemonitor2020.pdf>

prevalence rate of domestic violence. If verbal aggression were included, then 33% would have been victim of domestic violence. Next, 11% of the respondents have been a victim of sexual violence in the 12 months prior to the survey. This equates to 1.6 million people. Domestic violence mainly affects young adults and decreases with age. For example, 24% of 16 to 18-year-olds and 18% of 18 to 24-year-olds said they had been victims of domestic violence, compared to 3% of those over 65. Women are slightly more often victims than men are: 9% of women against 7% of men. In all forms of domestic violence, the perpetrator is more often a man than a woman.

Domestic violence can be sexual and – vice versa – sexual violence can take place in the domestic circle. However, this overlap between domestic violence and sexual violence is small: 1% of the population aged 16 and older (162,000 people) was a victim of domestic sexual violence, while 8% was a victim of domestic violence that had no sexual connotation. On the other hand, sexual violence does for the largest part not take place in the domestic circle: 10% of the population aged 16 and older has been the victim of sexual violence outside the domestic circle. For 1% this happened inside the domestic circle.

6% of people aged 16 or older (820,000 people) have been a structural victim of domestic violence, that is, they have experienced at least one act of domestic violence (almost) daily, weekly or monthly in the past 12 months. Due to the repeated, structural character of stalking and coercive control in the domestic circle, by definition these acts of violence are seen as structural victimization. Around 1% has been a structural victim of sexual violence (185,000 people) and 0.2% has been structural victim of domestic sexual violence (27,000 people).

6% people over 16 with an ex-partner indicated that he or she had stalked them in the past five years and 2% were victims of this in the past 12 months prior to the survey (approximately 190.000 people). Women are more likely to be affected than men are.

Sexual violence includes non-physical sexual harassment, physical sexual violence and online sexual harassment. 11% of the population (16 years and older) indicated that they had been a victim of sexual violence. These are 1.6 million people. Women are more often victims than men (15% against 7%). 5% of women said they had experienced physical sexual assault, 11% non-physical sexual harassment, and 7% online sexual harassment. The figures for men were 2%, 3% and 4%, respectively. The perpetrator was more often male than female.

On 21 December 2020, Statistics Netherlands (*Centraal Bureau voor de Statistiek*) published a report about domestic violence which contains figures of the regional



'Safe at Home' organisations covering the first half of 2020.<sup>176</sup> The 'Safe at Home' organisations started to work from 1 January 2015 as centres where victims and witnesses of domestic violence and child abuse can find support and report incidents. These regional organisations are obliged to deliver their bi-annual figures to the Statistics Netherlands. In the first half of 2020, the 'Safe at Home' organisations gave 58,500 advices (an increase of % compared with the first half of 2019) and handled 64,425 reported incidents a decrease of 2% compared with the first half of 2019).

## **Chapter 8. Developments in the implementation of the Convention on the Rights of Persons with Disabilities**

### **1. CRPD policy & legal developments**

On 23 March 2020, the disability care and psychiatric care sectors adopted new visitors' regulations as a response to the COVID-19 pandemic.<sup>177</sup> Under these regulations, care homes for people with disabilities will not admit visitors, unless contact with a family member or volunteer is essential to a resident's wellbeing. A

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<sup>176</sup> Statistics Netherlands (*Centraal Bureau voor de Statistiek*) (2020), Impact Monitor Domestic Violence and Sexual Violence 2020 [*Impactmonitor huiselijke geweld en kindermishandeling 2019*], available at:

<https://www.huiselijkgeweld.nl/binaries/huiselijkgeweld/documenten/publicaties/2020/12/21/impactmonitor-aanpak-huiselijk-geweld-en-kindermishandeling-2020/impactmonitor-hgkm-2020.pdf>

<sup>177</sup> The Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezond, Welzijn en Sport*) (2020), 'New visitors regulations for the disability care and psychiatric care sectors', News release, 23 March 2020, available at: <https://www.government.nl/latest/news/2020/03/23/new-visitors-regulations-for-the-disability-care-and-psychiatric-care-sectors>

complete visitors ban will be imposed if anyone is found to be infected with the coronavirus. Psychiatric institutions did not impose a total ban on visitors because that would pose serious risks to the mental health of patients in psychiatric institutions. In June, measures in relation to the lockdown were gradually alleviated. As of 1 June 2020, all residents in the disabled care sector received a programme of daytime activities. As of 15 June 2020, the visitor regulations were made more flexible. People can visit care homes for people with disabilities. Rules for the visits are listed in a special guideline.<sup>178</sup> As of 1 July, residents of care homes can stay a few nights at another place than their home. On 13 August 2020 'Ieder (in)', an organisation that represents people with a disability, published the results of a survey held among 647 people between 23 June and 7 July.<sup>179</sup> The respondents were either relatives of people with a disability or people with a disability. They were questioned about how they experienced the loosening up of measurements in relation to Covid-19 ever since 1 June 2020. Most of the respondents are satisfied with lifted restrictions in regards to visiting arrangements. Yet, a substantial minority are still people dissatisfied with the visiting arrangements. In addition, daytime activities have not been the same as to prior to the corona crisis. Transport to and from the daytime activities also does not seem to be well organised. Furthermore, the survey shows that relatives are still far too little involved

On 21 April, news programme 'RTL Nieuws' reported about a survey conducted by 'Ieder(in)', an organisation that represents people with a disability, which shows that 60% of people with disabilities indicate that the care they need has been stopped or diminished because of the corona epidemic. Almost half of them are physically getting worse due to the measures to prevent the spread of the Coronavirus.<sup>180</sup> The survey is based on a questionnaire answered by 532 people who form part of a panel (78% participants are people with a disability; and 18% are people who care for people with a disability). The study was conducted in the

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<sup>178</sup> Association for Care of People with a disability (*Vereniging Gehandicaptenzorg Nederland*) (2020), *Guidelins for Handreiking bezoek en logeren gehandicaptenzorg: voor verantwoord bezoek en logeren in coronatijd*, available at: [https://www.vgn.nl/system/files/2020-07/Handreiking\\_Bezoek%20en%20logeren\\_juli2020\\_DEF\\_0.pdf](https://www.vgn.nl/system/files/2020-07/Handreiking_Bezoek%20en%20logeren_juli2020_DEF_0.pdf)

<sup>179</sup> Ieder(in) (2020), *Experiences of people with a disability and their relatives with the relaxtaion of Corona measures [Ervaringen van mensen met een beperking en hun naasten met de versoepeling van de coronamaatregelen]*, Utrecht, Ieder(in), available at: <https://iederin.nl/wp-content/uploads/2020/08/Eindrapportage-KansPlus-Enquete.pdf>

<sup>180</sup> RTL (2020), 'Corona raakt mensen met beperking ongekend hard: 'We zijn zo gefrustreerd'', *RTL News*, 21 april 2020, available at: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5096736/corona-hakt-er-bij-gehadnciaptent-jasmijn-zo-gefrustreerd>

period 7-12 April 2020.<sup>181</sup> There are about 1.5 million people with a physical or mental disability in the Netherlands.<sup>182</sup>

On 18 June 2020, 'Ieder (in)', an organisation that represents people with a disability, published the results of a survey held at the end of May among 2,129 people with a disability.<sup>183</sup> Respondents were asked how they experience life during the lockdown. The results shows that the corona crisis has a major impact on the quality of life of people with disabilities. Half of the respondents' physical conditions have deterioration in recent months, 45% suffer from loneliness, and more than 40% suffer from stress or psychological complaints. The main causes are lack of contact with close family and loved ones; the concerns and fear of contamination; the forced postponement of medical treatments and appointments.

The Ministry of Interior and Kingdom Relations published a document containing measures which can be implemented directly to make the elections in 2021 more accessible for people with disabilities.<sup>184</sup>

On 3 July 2020, the government sent the final report on the evaluation of the Suitable Education Act (*Wet Passend Onderwijs*) to the House of Representatives.<sup>185</sup> This act, which took effect in August 2014, intends to integrate pupils and students with special needs (including children with disabilities) in the mainstream education. This official evaluation suggests that the system implemented by the Act is falling short due to bureaucracy, limited budgets and confusion about whether schools or parents should bear extra costs. The new Act has not led to a substantial increase in children with special needs being provided for in mainstream education, and teachers do not have substantially more help to support these pupils, the report stated. The change in the system, and the promise

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<sup>181</sup> Ieder(In) (2020), *What does the Coronacris mean for you? Results form a panelStudy by Ieder(in) form 7 April to 12 April 2020* [Wat betekent de coronacrisis voor u? Uitkomsten van de panelraadpleging van Ieder(in) van 7 t/m 12 april 2020], available at: <https://iederin.nl/wp-content/uploads/2020/04/Resultaten-Panelenquete-april-2020.pdf>

<sup>182</sup> RTL (2020), 'Corona raakt mensen met beperking ongekend hard: 'We zijn zo gefrustreerd'', *RTL News*, 21 april 2020, available at: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5096736/corona-hakt-er-bij-gehadnciaptent-jasmijn-zo-gefrustreerd>

<sup>183</sup> Ieder(in) (2020), *How will your life become liveable again? Results of the survey on what people with a disability or chronic illness need in order to (also) benefit from relaxation of the coronary measures*, [Hoe wordt uw leven weer leefbaar? Uitkomsten van de enquête over wat mensen met een beperking of chronische ziekte nodig hebben om (ook) profijt te hebben van versoepeling van de coronamaatregelen], Utrecht, Ieder(in), available at: [https://iederin.nl/wp-content/uploads/2020/06/Rapport-Hoe-wordt-uw-leven-weer-leefbaar-eindversie\\_2020\\_06\\_17.pdf](https://iederin.nl/wp-content/uploads/2020/06/Rapport-Hoe-wordt-uw-leven-weer-leefbaar-eindversie_2020_06_17.pdf)

<sup>184</sup> The Netherlands, Ministry of Interior and Kingdom Relations (*Ministerie van Binnenlandse Zaken en Koninkrijksrelaties*) (2020), *Approach Accesible Voting* [Actieplan Toegankelijk Stemmen], available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/06/15/actieplan-toegankelijk-stemmen/actieplan+toegankelijk+stemmen.pdf>

<sup>185</sup> Ledoux, G. & Waslander (2020), *Evaluation suitable education* [Evaluatie passend onderwijs. Eindrapport Mei 2020], Amsterdam /Tilburg / Nijmegen : Kohnstamm Instituut / TIAS School for Business and Society, Tilburg University / KBA Nijmegen, available at: <https://evaluatiepassendonderwijs.nl/wp-content/uploads/2020/05/Eindrapport-evaluatie-passend-onderwijs-2020.pdf>

of a suitable education, has raised expectations among teachers and parents that have not been fulfilled, the report concludes. In addition, the effects on pupils and students are difficult to determine.

On 23 June 2020, the Education Council (*Onderwijsraad*), an independent governmental advisory body, submitted an advice on inclusive education to the Minister for Primary and Secondary Education and Media.<sup>186</sup> In this advice, the Education Council provides a perspective on how education can become more inclusive on the long run for pupils and students with a disability. So that gradually more and more schools are ready for pupils and students with disabilities.

On 22 September 2020, the House of Representatives passed a Bill for a Dutch Sign Language Recognition Act (*Wet erkenning Nederlandse gebarentaal*).<sup>187</sup> On 13 October 2020, the Senate passed the bill.<sup>188</sup> With this act, Dutch Sign Language of the Netherlands (*NGT, Nederlandse Gebarentaal*) becomes an official language in the Netherlands, next to Dutch and Frisian. Members of the House of Representatives initiated the bill already in 2016, but the COVID-19 pandemic accelerated the legislative process by putting sign language in the public spotlight. Sign language interpreters were not present at the first coronavirus press conferences by the government on television. Hearing impaired people could not understand what was being said. Organisations of people with disabilities experienced exclusion. At the press conference of the Prime Minister of 12 March 2020, in which the second set of measures was announced, a sign language interpreter was present. From there on all government, press conferences include a language interpreter.

On 23 September 2020, the Temporary Decree on Digital Accessibility for Government (*Tijdelijk besluit digitale toegankelijkheid overheid*) took effect for all government websites.<sup>189</sup> The decree stipulates that all government websites must comply with accessibility requirements as specified in EN 301 549 / WCAG 2.1 and must take responsibility for this in a published accessibility statement.

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<sup>186</sup> The Netherlands, the Education Council (*Onderwijsraad*) (2020), More inclusive [*Steeds inclusiever*], available at:

<https://www.onderwijsraad.nl/binaries/onderwijsraad/documenten/adviezen/2020/06/23/steeds-inclusiever/Steeds+inclusiever.pdf>

<sup>187</sup> The Netherlands, House of Representatives (*Tweede Kamer der Staten-Generaal*) (2020), Bill by Members Kuiken, Dik-Faber en Van Eijs for the Recognition of the Dutch Sign Language [Voorstel van wet van de leden Kuiken, Dik-Faber en Van Eijs ter erkenning van de Nederlandse Gebarentaal, Parliamentary document [Kamerstuk], 34 562, No. 6, available at:

<https://zoek.officielebekendmakingen.nl/kst-34562-6.html>

<sup>188</sup> The Netherlands, Senate (*Eerste Kamer der Staten-Generaal*) (2020), Vote on Bill for the Recognition of the Dutch Sign Language [*Stemming Erkenning Nederlandse gebarentaal*], Web page, available at:

[https://www.eerstekamer.nl/verslagdeel/20201013/erkenning\\_nederlandse\\_gebarentaal](https://www.eerstekamer.nl/verslagdeel/20201013/erkenning_nederlandse_gebarentaal)

<sup>189</sup> The Netherlands, Logius - Ministry of the Interior and Kingdom Relations (*Logius - Ministerie van Buitenlandse Zaken en Koninkrijksrelaties*) (2020), 'Verplichting per 23 september: veel instanties publiceren verklaring', News release, 7 October 2020, available at:

<https://www.digitoegankelijk.nl/nieuws/verplichting-23-september-veel-instanties-publiceren-verklaring>

On 2 November 2020, the Dutch Institute for Human Rights (*College voor de Rechten van de Mens*) published an advice to the government and educational institutions on how to ensure an inclusive education system.<sup>190</sup> The Institute is the independent body responsible for the monitoring mechanism for the CRPD. This advice contains a number of recommendations for the central government, local authorities and educational institutions on how to realise the right to education as listed by CRPD. The first recommendation is to take the potential of each pupil or student as a starting point and to adjust educational policies accordingly. What does a pupil or student need to develop as much as possible. The second recommendation is that each new piece legislation that relates to education is assessed in view of the right to education as listed in the CRPD. The third recommendation is that the national government should make an overarching policy framework containing a vision on how to implement an inclusive education system.

On 4 November 2020, the Ministry of Education, Culture and Science published a policy document on how to achieve a more inclusive education system in the long term (15 years).<sup>191</sup> It aims to make the education system more inclusive along the following criteria: (1) The need for support is leading; (2) the student or pupil is heard; (3) the teacher is supported and equipped; (4) the parent is an equal partner next to the teacher; (5) there is a comprehensive network of services in each region; (6) there is transparency and accountability for support resources; (7) there is acceptable administrative burden.

On 11 November 2020, Defence of Children published a report, assessed from a human rights perspective, in order to investigate how inclusive the Dutch educational system is towards people with disabilities.<sup>192</sup> It concludes that despite the obligations imposed by the UN Convention on the Rights of the Child and the UN Human Rights Convention on Disability, inclusive education is not realised in the Netherlands.

On 16 November 2020, the Netherlands Institute for Social Research (*Sociaal en Cultureel Planbureau*) published a study on three acts in the social domain that

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<sup>190</sup> The Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2020), The right to education in the CRPD. In-depth advice [*Het recht op onderwijs in het VN-verdrag handicap. Verdiepend advies* ], Utrecht, College voor de Rechten van de Mens, available at: <https://publicaties.mensenrechten.nl/file/dbbf5e70-9d71-4b2f-85cd-30d8f84bfba3.pdf>

<sup>191</sup> The Netherlands, Ministry of Education, Culture and Science (*Ministerie van Onderwijs, Cultuur en Wetenschap*) (2020), Policy document : Evaluation and how to improve suitable education [*Beleidsnota: Evaluatie en verbeteraanpak passend onderwijs*], available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/11/04/bijlage-2-beleidsnota-evaluatie-passend-onderwijs/bijlage-2-beleidsnota-evaluatie-passend-onderwijs.pdf>

<sup>192</sup> Minderman, F. (2020), Op weg naar inclusief onderwijs als dagelijkse realiteit : Een kinderrechtenkader, Leiden, Defence for the Children, available at: [http://defenceforchildren.nl/media/5040/dfc\\_inclusief-onderwijs\\_a5\\_def\\_web.pdf](http://defenceforchildren.nl/media/5040/dfc_inclusief-onderwijs_a5_def_web.pdf)

took effect in 2015.<sup>193</sup> One of these acts is the 2015 Social Support Act (*Wet Maatschappelijke Ondersteuning 2015*), which holds responsibility for the support of people with a disability at the local or municipal level. The aim of this Act is to support the independency of people with a disability. The study concludes that the results of this Act fall short of its expectations. The social participation of people with disabilities did not increase.

On 20 November 2020, the Minister of Health, Welfare and Sport sent the second report on the implementation of comprehensive policy programme 'Onbeperkt meedoen!'<sup>194</sup> (See letter<sup>195</sup>) to the House of Representatives. This programme started in 2018. This governmental aims to implement of the CRPD and focuses on the social areas, which for the greater part are people's daily lives: building and housing; employment; education; transport, social participation and accessibility; care and support. This second report gives an overview of the initiatives and policies implemented during in 2020.

## 2. CRPD monitoring at national level

On 22 July 2020, a study on the position of people with a severe intellectual disability commissioned by the Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*), was published.<sup>196</sup> The Netherlands Institute for Human Rights is the independent body responsible for the monitoring mechanism for the CRPD. This study concludes that care personnel and close relatives work hard to give people with a (very) severe intellectual disability a dignified life as

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<sup>193</sup> Kromhout, M., Van Echtelt, P. and Feijten, P. (2020), Social domain on track? Expectations and results of five years of decentralized policy [*Sociaal domein op koers? Verwachtingen en resultaten van vijf jaar decentraal beleid*], Sociaal en Cultureel Planbureau (SCP), available at: [https://www.scp.nl/binaries/scp/documenten/publicaties/2020/11/16/sociaal-domein-op-koers/Sociaal+domein+op+koers\\_WEB2.pdf](https://www.scp.nl/binaries/scp/documenten/publicaties/2020/11/16/sociaal-domein-op-koers/Sociaal+domein+op+koers_WEB2.pdf)

<sup>194</sup> The Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2020), Unlimited participation. Implementation report 2020 [*Onbeperkt meedoen! Voortgangsrapportage 2020*], available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/20/voortgangsrapportage-2020-onbeperkt-meedoen/voortgangsrapportage-2020-onbeperkt-meedoen.pdf>

<sup>195</sup> The Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2020), 'First report on the implementation of the programme Unlimited participation' [*'Voortgangsrapportage programma Onbeperkt Meedoen! 2020'*], Letter to the House of Representatives (*Tweede Kamer der Staten-Generaal*), 20 November 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/11/20/kamerbrief-over-voortgangsrapportage-programma-onbeperkt-meedoen-2020/kamerbrief-over-voortgangsrapportage-programma-onbeperkt-meedoen-2020.pdf>

<sup>196</sup> Hogeboom, L., Crabbendam, J. en Buysse, W/ (2020), A dignified life: Exploratory study into the situation of people with a (very) severe mental handicap in the Netherlands in the light of the UN Convention on Disability [*Een waardig leven: Verkennend onderzoek naar de situatie van mensen met een (zeer) ernstige verstandelijke beperking in Nederland in het licht van het VN-verdrag handicap*], Amsterdam, DSP-groep, available at: <https://publicaties.mensenrechten.nl/file/6ad95506-7f47-49b3-a4fd-48bb219f7102.pdf>

possible. They give them as much independence as possible. At the same time, this does not always succeed. Among other factor, this is due to the following worrying signals that the researchers received: lack of time or frequent changes of care personnel, the care profiles in the Long-Term Care Act that are not sufficient for everyone to realise sufficient and appropriate care, the policy frameworks of municipalities that are not appropriate for this target group.

On 1 September 2020, the Netherlands Institute for Social Research (*Sociaal en Cultureel Planbureau*) published a study on the educational and labour market participation by people with a mild intellectual disability.<sup>197</sup> People with a mild intellectual disability (MID) often run into problems at school or work because their disability is not recognised, also not by direct social circles, such as family or friends. It is not always clear that someone has a mild intellectual disability. This can create the image that someone does not want to participate, while it is more a matter of not being able to do so. Timely identification and guidance at school, awareness among staff, and support in the direct environment can reduce the problems surrounding the participation of people with MID.

A monitor assessing 7,000 government websites on accessibility concludes that only 1% of the government's websites is accessible.<sup>198</sup>

As part of the monitoring the implementation of comprehensive policy programme 'Onbeperkt meedoen!<sup>199</sup>, Nivel, the Netherlands Institute for Health Services Research published the second edition of the monitor of this programme on 20 November 2020.<sup>200</sup> This report contains measurements on the social participation of people with disabilities for the years 2016, 2018 and 2019. Social participation in nine sub-areas was examined: (1) using neighbourhood facilities, (2) getting outside, (3) using public transport, (4) employment, (5) voluntary work, (6) education, (7) visiting entertainment venues, (8) participating in association activities and/or courses, and (9) interacting with friends, neighbours and acquaintances. This edition concludes that, in general, the participation of people

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<sup>197</sup> Putman, L. and Woittiez, I. (2020), Educational and labour market participation by people with a mild intellectual disability [*Meer meedoen : Inzicht in de onderwijs- en arbeidsmarktdeelnemers van mensen met een licht verstandelijke beperking*], Sociaal en Cultureel Planbureau (SCP), available at: [https://www.scp.nl/binaries/scp/documenten/publicaties/2020/09/01/meer-meedoen/Meer+meedoen\\_def.pdf](https://www.scp.nl/binaries/scp/documenten/publicaties/2020/09/01/meer-meedoen/Meer+meedoen_def.pdf)

<sup>198</sup> Ernst, J. and Beenen, R. (2020) Monitor 2000. Assessment of 7000 government websites [*Monitor 2020. Analyse 7000 websites overheid*], available at: <https://www.digimonitor.nl/monitor2020/>

<sup>199</sup> The Netherlands, Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) (2020), Unlimited participation. Implementation report 2020 [*Onbeperkt meedoen! Voortgangsrapportage 2020*], available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2020/11/20/voortgangsrapportage-2020-onbeperkt-meedoen/voortgangsrapportage-2020-onbeperkt-meedoen.pdf>

<sup>200</sup> Netherlands Institute for Health Services Research (Nivel) (2020), Monitor unlimited participation/ Second measurement of indicators 2016-2019 [*Monitoring Onbeperkt meedoen! Tweede meting overkoepelende indicatoren: 2016-2019*], available at: <https://nivel.nl/sites/default/files/bestanden/1003884.pdf>

with physical disabilities, people with intellectual disabilities and people with mental illness is lower in all three years compared to the people without disabilities. The main difference between people with disabilities and those without can be seen in the field of employment. This applies to all groups. Across all groups, the difference in participation between people with a disability and people without a disability has remained the same in most sub-areas (for people with a physical or mental disability in four sub-areas and for people with mental illness in five sub-areas). This difference has widened in a number of areas (for people with a physical disability in four areas and for people with an intellectual disability or mental illness in three areas). These larger differences may be due to a decrease in participation by people with disabilities and/or an increase in participation in the general population. For people with a mental illness, the difference with the general population has narrowed in one area (participation in association activities and/or courses). Trend analyses show that, since 2016, people with a physical disability have made less use of neighbourhood facilities, such as shops and community centres, and that they go outside less often. People with an intellectual disability have started doing less (un) paid work since 2016. People with a mental illness are less likely to have paid work or participate in the educational system, but make more use of community facilities, public transport and association activities. People with a physical disability or mental illness more often feel excluded from society opposed to people who do not have a disability. People in the general population indicate more often that they have (very) good opportunities to live the way they want to, than people with a physical disability or mental illness. Since 2016, there has been a decline in the ability of people with a physical disability to live the way they want to. The vast majority of people with a physical, mental or sensory disability indicate that they are satisfied with their homes. A lesser percentage are satisfied with their ability to meet neighbours, friends and acquaintances, take trips or a trip, and go to work or another location away from home. The satisfaction of people with a sensory disability with the possibilities to visit neighbours, friends and acquaintances and to take outings and travel (holiday) seems to increase between 2016 and 2019.

On 3 December 2020, the Netherlands Institute for Human Rights published the fourth report as a part of its monitor on the implementation of the CRPD.<sup>201</sup> The report presents the situation in the Netherlands with regard to one aspect of the CRPD: the obligation imposed by article 4, lid 3 of the CRPD on States parties to consult with and actively involve people with disabilities, through their

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<sup>201</sup> The Netherlands, Dutch Institute for Human Rights (*College Rechten van de Mens*) (2020), Participation of people with a disability in the development and implementation of legislation and policies. Annual report about the implementation of the CRPD [*Participatie van mensen met een beperking bij de totstandkoming van wetgeving en beleid. Jaarlijkse rapportage over de naleving van het VN-verdrag handicap in Nederland 2020 in the Netherlands*], Utrecht, College voor de Rechten van de Mens, available at: <https://publicaties.mensenrechten.nl/file/f145d12c-b4ac-4da2-a518-46745a8fb974.pdf>



representative organisations, in the development and implementation of legislation and policies to implement the CRPD. This report is based on desk research and interviews with stakeholders. The Netherlands Institute for Human Rights concludes that possibilities for participation of people with disabilities in legislation and policy are not yet good enough in the Netherlands. The central government and municipalities often do not involve people with disabilities and /or organisation representing the interests of people with disabilities, or involve them too late. As a result, they do not comply with the obligations of the CRPD.

# Annex 1 – Promising Practices

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one example of a promising practice to tackle discrimination against older people or LGBTI people such as awareness raising campaigns or ethical codes for healthcare staff held in your country in 2020. Where no such examples are available, please provide an example of an awareness raising campaign held in your country in 2020 relevant to equality and non-discrimination of older people or LGBTI people, preferably one conducted by a national equality body.
Title (original language)	GSA Onderwijs Standaard
Title (EN)	'GSA (gender sexuality alliance) Education Standard'
Organisation (original language)	GSA Network
Organisation (EN)	GSA Network
Government / Civil society	Civil society
Funding body	Government
Reference (incl. url, where available)	GSA Network (2020), 'GSA Onderwijsstandaard', Web site, available at: <a href="https://www.gsaonderwijsstandaard.nl/">https://www.gsaonderwijsstandaard.nl/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2020-present
Type of initiative	Checklist

Main target group	Schools
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Every school in the Netherlands is obliged by law to provide a supportive environment for LGBT-students. The GSA Education Standards sets criteria, which need to be met in order to be a supportive environment for schools at secondary education level. These criteria are based on the three principles: (1) At school, everyone needs to learn to respect sexual and gender diversity. (2) At school, LGBTI students are supported if necessary. (3) At school, the care and attention for LGBTI students is a part of the school policy and the safety plan. Based on the GSA Education Standard, students determine whether their school is doing enough, or whether things can still be improved.
Highlight any element of the actions that is transferable (max. 500 chars)	The whole intervention is transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The practice is sustained through the GSA Network the Dutch version of the Gender-Sexuality alliance a student-led or community-based organisation at high schools that aim to provide a safe environment for LGBT-students and support sexual and gender diversity at schools. The GSA in GSA Netherlands stands for Gender & Sexuality Alliance.
Give reasons why you consider the practice as having concrete measurable impact	Each year a list is published ranking the schools that implement the GSA Education Standard.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	For all schools in the EU providing a safe and supportive environment for LGBT-students is a challenge.
Explain, if applicable, how the practice involves beneficiaries	GSA Netherlands develop the practice in cooperation with a number of schools. GSA Netherlands is the Dutch version of the Gay-Straight alliance a student-led or

and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	community-based organisation at high schools that aim to provide a safe environment for LGBT-students and support sexual and gender diversity at schools. The GSA in GSA Netherlands stands for Gender & Sexuality Alliance.
Explain, if applicable, how the practice provides for review and assessment.	Each year a list is published ranking the schools that implement the GSA Education Standard.

<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE</b> Please provide one example of a promising practice to address racism and xenophobia in the context of the COVID-19 pandemic. Where no such practice exists, please provide one example of a promising practice related to combating racism, xenophobia and related intolerances.
Title (original language)	#KIESMIJ
Title (EN)	`#CHOOSEME`
Organisation (original language)	Ministerie van Onderwijs, Cultuur en Wetenschap
Organisation (EN)	Ministry of Education, Culture and Science
Government / Civil society	Government / Civil Society
Funding body	National Government
Reference (incl. url, where available)	The Netherlands, Ministry of Education, Culture and Science (Ministerie van Onderwijs, Cultuur en Wetenschap) (2020), " Campagne #KIESMIJ tegen stagediscriminatie van start", News release, 12 November 2020, available at:

	<a href="https://www.rijksoverheid.nl/actueel/nieuws/2020/11/12/campagne-kiesmij-tegen-stagediscriminatie-van-start">https://www.rijksoverheid.nl/actueel/nieuws/2020/11/12/campagne-kiesmij-tegen-stagediscriminatie-van-start</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	November 2020 - present
Type of initiative	Awareness campaign
Main target group	Employers / Student / Teachers
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Online campaign against internship discrimination. Students with a migration background face discrimination when applying for an internship. Based on personal stories of students who have experienced internship discrimination, the campaign is widely spread through various digital channels. Additionally, the platform kiesmij.nl (choose me.nl) provides employers, schools and students help in combating and preventing internship discrimination. As such, the platform gives information and practical tools to reduce this type of discrimination. The campaign stimulates students to report internship discrimination through their hotline and to talk about it with their internship supervisors or mentors. There are also online training sessions and webinars that teach companies how to select their interns as unbiased as possible.

Highlight any element of the actions that is transferable (max. 500 chars)	All elements are transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	This campaign is initiated and supported by the national government in cooperation with all major stakeholders. The campaign can be reproduce in other contexts.
Give reasons why you consider the practice as having concrete measurable impact	The campaign provides tools for all parties involved: students, teachers and employers.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	Internship discrimination is a form of labour market discrimination and, in the whole EU, students with a migration background can face this form of discrimination.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	The campaign was initiated by the Ministry of Education, Culture and Science in cooperation with numerous Stakeholders in the field of employment including employer organisations, trade unions, educational institutions and the Netherlands Institute for Human Rights.
Explain, if applicable, how the practice provides for review and assessment.	All government campaigns are reviewed and assessed.

<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide one example of promising practice in relation to the legal and policy developments in regard to Roma/Travellers (or any group covered by this term as per the
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	Council of Europe definition) in 2020 that relate to the (1) application of the EU Framework on national Roma integration strategies and (2) the preparations for the new post-2020 initiative on Roma equality, inclusion and participation or in relation to any measures in your country in 2020 to address Roma inclusion and prevent discrimination, hate crime and hate speech with a particular focus on COVID-19.
	No promising practice has been identified for this thematic area.

<b>Thematic area</b>	<b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please, provide one example of a promising practice related to any of the topics addressed in the chapter – i.e. in relation to data protection, and/or artificial intelligence systems - in 2020.
Title (original language)	Publicroam
Title (EN)	Publicroam
Organisation (original language)	Publicroam
Organisation (EN)	Publicroam
Government / Civil society	Civil society
Funding body	Commercial
Reference (incl. url, where available)	Publicroam (2020) 'Over publicroam', Web page, available at: <a href="https://publicroam.nl/over-publicroam/">https://publicroam.nl/over-publicroam/</a>

Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2018 - present
Type of initiative	Free Wi-Fi service
Main target group	All organisations that offer fee Wi-Fi for to guests (municipalities, libraries etc.)
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	Publicroam is a service by the firm Publicroam that provides safe and easy access to Wi-Fi everywhere available to guest users. It builds on international roaming services for target groups like Eduroam (students) and Govroam (civil servants); however, Publicroam is available to everyone. As such, it allows anyone to create an account and access the network. Publicroam has made connecting securely to the service as simple as possible for users: You can either send a SMS to receive access credentials or for example scan a QR code at the Wi-Fi service location. Once connected, the device – such as a smartphone – will automatically be reconnected when in range of a Publicroam Wi-Fi signal. The service can be delivered on any already available Wi-Fi networks in return for a small fee paid by the network owner.
Highlight any element of the actions that is transferable (max. 500 chars)	The whole practice is transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The practice is provided



<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>The service provides safe and easy access, in an effective way, to Wi-Fi guest users</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>Providing secure Wi-Fi for guests is a challenge faced by all authorities or organisation who provide an open Wi-Fi service.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>Publicroam is developed and designed by the owners of the firm Public Roam who are experienced in developing this kind of devices.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>PublicRoam has been awarded the Privacy Award 2000 in Consumer Solutions. The Publicroam service is already used by a number of municipalities (e.g. The Hague since 2018, Amsterdam since 2019).</p>

<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	Speaking Minds
Title (EN)	Speaking Minds
Organisation (original language)	Save the Children / Stimulansz / Defence for Children
Organisation (EN)	Save the Children / Stimulansz / Defence for Children
Government / Civil society	Civil society
Funding body	National government / Municipality
Reference (incl. url, where available)	Save the Children (2000), 'Speaking minds', Website, available at: <a href="https://speakingminds.nl/">https://speakingminds.nl/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2018 - present
Type of initiative	Encouraging political participation
Main target group	Children /Youth (12-18 years of age)
Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	In the Netherlands, municipalities are responsible for child poverty and are obligated by the UN Convention on the Rights of the Child, to involve children and youth in policy formation. Through this practice, children and youth, between 12-18 years old, are linked to municipal policy makers who are responsible for combatting child poverty. The local policymakers present an issue to a group of young people who will study it for 10 weeks. These children or youth then submit their advice to the municipality in the form of a final

	<p>presentation. In order to ensure that the participation of youth is meaningful, the municipality provides feedback after three months, on what has been done with their advice and how it turned out to be applicable. This practice, thus, focuses on stimulating the participation of children in the policy making process in order to reduce child poverty. The intervention is supported and carried out by three NGOs in the field of children's rights.</p>
<p>Highlight any element of the actions that is transferable (max. 500 chars)</p>	<p>The whole practice is transferable.</p>
<p>Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')</p>	<p>The practice is sustained by several NGOs, which have a lot of experience in supporting children's rights and supporting the political participation of children and youth.</p>
<p>Give reasons why you consider the practice as having concrete measurable impact</p>	<p>So far, 43 municipalities have made use of this practice. Children and youth have made 215 advices. Of these 215 advices, the municipality in question heeded 83. To put these figures in perspective: there are 335 municipalities in the Netherlands.</p>
<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>The aim of this project is to involve children in the formation of policies within the field of children's issues and has to be achieved in all Member States. Countries are obligated by the UN Convention on the Rights of the Child, to involve children and youth in the formation of policies.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>The intervention has been designed, developed by NGOs well-versed in children's rights issues.</p>

<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>The practice has been assessed by a study:</p> <p>Witkamp, A. (2018), <i>Jongerenparticipatie bij gemeentelijk armoedebeleid. Evaluatie Speaking Minds</i>, The Hague, Verwonderzoek, available at: <a href="https://verwonderzoek.nl/wp-content/uploads/2019/08/Jongerenparticipatie-bij-gemeentelijk-armoedebeleid.-Evaluatie-Speaking-Minds-310818.pdf">https://verwonderzoek.nl/wp-content/uploads/2019/08/Jongerenparticipatie-bij-gemeentelijk-armoedebeleid.-Evaluatie-Speaking-Minds-310818.pdf</a></p>
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<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide one example of a promising practice relating to the topics addressed in this chapter.
Title (original language)	Maatje achter de Voordeur
Title (EN)	'Friend behind the front door'
Organisation (original language)	Moviera
Organisation (EN)	Moviera
Government / Civil society	Civil society
Funding body	
Reference (incl. url, where available)	Moviera (2020), 'Moviera', Website, available at: <a href="https://www.maatjeachterdevoordeur.nl/">https://www.maatjeachterdevoordeur.nl/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2017 - present
Type of initiative	Individual support
Main target group	Individuals or families who have experienced domestic violence.
Indicate level of implementation: Local/Regional/National	Local
Brief description (max. 1000 chars)	In this practice volunteers who have dealt with domestic violence support individuals and families who have experienced domestic violence. The main aim of the intervention is to help people and families who have experienced domestic violence and provide support in the process of recovery. A long process in which they try to rebuild stability in their lives. Volunteers offer support herewith.

Highlight any element of the actions that is transferable (max. 500 chars)	The whole practice is transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	It is sustained by a professional organisation.
Give reasons why you consider the practice as having concrete measurable impact	The practice has been assessed and judged to be well considered. The assessment shows that the participants appreciate the training.
Give reasons why you consider the practice as transferable to other settings and/or Member States?	All Member States are looking for ways or interventions to support victims of domestic violence.
Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.	Moviera, an expertise centre for domestic in two Dutch provinces Utrecht and Gelderland, develops the practice.
Explain, if applicable, how the practice provides for review and assessment.	<p>Research institute Movisie assessed the practice. An independent panel decided that the practice was well considered. Subsequently the practice was incorporated in in the database for effective social interventions.</p> <p>Van Noorden, A. &amp; Vermeulen, E. (2020), <i>Maatje achter de Voordeur. Databank: Effectieve Sociale Interventies</i>, Utrecht, Moviera / Movisie, available at: <a href="https://www.movisie.nl/sites/movisie.nl/files/2020-09/Methodebeschrijving%20Maatje%20achter%20de%20Voordeur.pdf">https://www.movisie.nl/sites/movisie.nl/files/2020-09/Methodebeschrijving%20Maatje%20achter%20de%20Voordeur.pdf</a></p>

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<b>Thematic area</b>	<p><b>DEVELOPMENTS IN THE IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES (CRPD)</b></p> <p>Please provide one promising practice example of projects or programmes implementing the CRPD or furthering the rights of persons with disabilities.</p>
Title (original language)	MKB toegankelijk
Title (EN)	'SMEs accessible'
Organisation (original language)	MKB Nederland / VNO-NCW
Organisation (EN)	Royal Association MKB-Nederland / VNO-NCW (Confederation of Industry and Employers)
Government / Civil society	Civil society
Funding body	MKB Nederland / VNO-NCW
Reference (incl. url, where available)	MKB-Nederland / VNO-NCW (2020), 'Over MKB Toegankelijk', Web page, available at: <a href="https://www.mkbtoegankelijk.nl/over-mkb-toegankelijk/">https://www.mkbtoegankelijk.nl/over-mkb-toegankelijk/</a>
Indicate the start date of the promising practice and the finishing date if it has ceased to exist	2018- present

Type of initiative	Awareness campaign
Main target group	Small and medium-sized enterprises
Indicate level of implementation: Local/Regional/National	National
Brief description (max. 1000 chars)	This concerns a programme supporting small and medium sized enterprises to make their business more accessible for customers with a disability. This programme is maintained by the largest employers' organisation in the Netherlands: Royal Association MKB-Nederland and MKB Nederland, which represents the interests of small and medium-sized enterprises. The programme consists out of several elements. A considerable element is their website with practical information on how to achieve accessibility. The website provides guidelines on how to achieve accessibility in regards to the products and services, the buildings, the website, the information provided and the hospitality towards customers.
Highlight any element of the actions that is transferable (max. 500 chars)	All elements are transferable.
Give reasons why you consider the practice as sustainable (as opposed to 'one off activities')	The practice is supported by the two largest employers' organisations in the Netherlands.
Give reasons why you consider the practice as having concrete measurable impact	The programme provides information in a clear and practical on how small and medium-sized enterprises can achieve accessibility.



<p>Give reasons why you consider the practice as transferable to other settings and/or Member States?</p>	<p>In all Member States, enterprises are obliged under the CRPD to achieve accessibility for all customers.</p>
<p>Explain, if applicable, how the practice involves beneficiaries and stakeholders in the design, planning, evaluation, review assessment and implementation of the practice.</p>	<p>Partners in this programme include organisations representing the interests of people with a disability.</p>
<p>Explain, if applicable, how the practice provides for review and assessment.</p>	<p>No information is provided on how the practice will be reviewed or assessed.</p>

## Annex 2 – case Law

<b>Thematic area</b>	<b>EQUALITY AND NON-DISCRIMINATION</b> Please provide one high court decision addressing discrimination against older people or against LGBTI people. Where relevant, always highlight any relevance or reference to multiple or intersectional discrimination in the case you report.
<b>Decision date</b>	24 January 2020
<b>Reference details</b>	The Netherlands, Supreme Court ( <i>Hoge Raad</i> ) (2020), Case no. 18/05125 , 24 January 2020, ECLI:NL:HR:2020:114 , available at: <a href="https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2020:114">https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2020:114</a>
<b>Key facts of the case</b> (max. 500 chars)	<p>This case before the Supreme Court concerns the question whether a scheme provided for in a social plan of an employer (the ABN AMRO bank) on the maximization of a dismissal benefit is in conflict with the prohibition of age discrimination (Article 3 of the Equal Treatment on the Ground of Age in Employment Act). This social plan contains a so-called 'capping scheme', under which the severance payment of redundant employees is limited to the amount of loss of income up to their individual retirement age. If the employee has already reached that age at the time of their dismissal, their severance payment will be "capped" to zero. It draws from the case law of the CJEU that in assessing whether a measure as a 'capping scheme' is appropriate and necessary, the national court must reasonably weigh up the alleged relevant circumstances. As to appropriateness, the court should examine whether the contested measure is not manifestly inappropriate to achieve the legitimate aim of social and employment policy pursued by it. The Court of Appeal ruled has ruled that the capping regulation is not an appropriate and necessary means to achieve the objective. The ABN AMRO disputes the judgment before the Supreme successfully. According to the Supreme Court, the opinion of the Court of Appeal regarding the appropriateness and necessity of the capping regulation is not based on a reasonable consideration of all relevant circumstances.</p>

<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>The Court of Appeal has ruled that the capping regulation of an employer is not an appropriate and necessary means to achieve the objective. The Supreme decided that the Court of Appeal failed to consider all relevant circumstances in the case and failed to examine the appropriateness and necessity of the capping regulation in the light of the legitimate goals it pursues.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>When deciding whether a capping regulation in a social plan is in conflict with the prohibition of age discrimination a court all relevant circumstances should have examined the appropriateness and necessity of the capping regulation in the light of the legitimate goals it pursues.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>The Supreme Courts rules in favour of the employer and decides that Court of Appeal has to reconsider the appropriateness and necessity of the capping regulation based on a reasonable consideration of all relevant circumstances. Furthermore, the Supreme Court decides that the Court of Appeal should have examined the appropriateness and necessity of the capping regulation in the light of the legitimate goals it pursues.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>“Ten aanzien van de noodzakelijkheid van de aftoppingsregeling had het hof moeten beoordelen of zij op excessieve wijze afbreuk doet aan de belangen van de daardoor benadeelden, waarbij het de regeling in haar eigen regelingscontext had dienen te plaatsen door ook acht te slaan op de Mobiliteitsorganisatie en de door ABN-AMRO getroffen en bekostigde pensioenmaatregelen. In dat verband had het hof rekening moeten houden met zowel het nadeel dat voor de betrokken personen aan de aftoppingsregeling kleeft als met het hiervoor in 3.1.7 bedoelde voordeel daarvan. Het hof heeft deze maatstaven en omstandigheden niet (kenbaar) aan zijn in rov. 3.10 vervatte oordeel ten grondslag gelegd.”</p> <p>“The Court of Appeal should have examined the appropriateness and necessity of the capping regulation in the light of the legitimate goals it pursues (see 3.1.6 and 3.1.7 above). In paragraph. 3.6 and 3.7 of its decision legitimate objectives - limiting the financial consequences of the reorganization for ABN AMRO and the staff that remain in service; fair distribution of the available resources among those involved in the dismissal; and limiting the economic disadvantage of the employees who lose their job, in particular the decline in income - the court of appeal ruled in para. 3.10 concerned only with the aim of distributing the available resources fairly among those involved in the dismissal.”</p>

	The Netherlands, Supreme Court ( <i>Hoge Raad</i> ) (2020), Case no. 18/05125 , 24 January 2020, ECLI:NL:HR:2020:114 , available at: <a href="https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2020:114">https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:HR:2020:114</a>
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<b>Thematic area</b>	<b>RACISM, XENOPHOBIA AND RELATED INTOLERANCE.</b> Please provide the most relevant high court decision concerning the application of <u>either</u> the Racial Equality Directive <u>or</u> the Framework Decision on racism and xenophobia, addressing racism, xenophobia and other forms of intolerance more generally.
<b>Decision date</b>	4 September 2020
<b>Reference details</b>	The Netherlands, Court of Appeal The Hague ( <i>Gerechtshof Den Haag</i> ) (2020), Case no. 22-00007-17, 4 September 2020, ECLI:NL:GHDHA:2020:1606, available at: <a href="https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2020:1606">https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2020:1606</a>
<b>Key facts of the case</b> (max. 500 chars)	On 19 March 2014, elections for the municipal councils were held. The political party PVV of Geert Wilders participated in those election in two municipalities: Almere and the Hague. On the election night, Wilders asked his audience during a meeting of party followers in the Hague: "do you want more or less Moroccans in this city and in the Netherlands?". In response, the audience - which was instructed beforehand - repeatedly chanted "less". Subsequently more than 6000 people pressed charges against Wilders. The Public Prosecution Service decided to prosecute Wilders because of incitement to hatred and discrimination and on the charge of insulting a group of people because of their race. On 9 December 2016, the District the Hague convicted Wilders under Article 137c of the Dutch criminal code (group insult) and under Article 137d of the Dutch Criminal Code (incitement to discrimination and hatred). The Court of Appeal in this verdict maintains the conviction of Wilders for group insult but exonerate Wilders for incitement to discrimination and hatred.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The Court of Appeal ruled that Wilders' statement, even if it was made in the context of the political debate, was unnecessarily offensive. By doing so, the Court of Appeal confirmed the verdict by the District Court. The Court of Appeal emphasized the importance of the right to freedom of expression, particularly that of a politician, but also stated that this does

	<p>not preclude conviction in this case. Wilders was also prosecuted and convicted by the District Court for "incitement to hatred or discrimination" but the Court of Appeal acquitted Wilders on this charge because Wilders' intent was not aimed at encouraging his public to do so.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>The verdict clarifies two key issues. First, the concept of 'race' in the sense of the Dutch Criminal Code includes the term 'Moroccans'. The legal definition of race is much broader than its common definition in everyday language and scientific research. The defence argued that Moroccans are solely a nationality and are not protected against incitement to discrimination because of that.</p> <p>Secondly, the freedom of expression may be restricted in cases foreseen by the law. Dutch criminal law allows for the restriction of freedom of speech when a person insult a group because of their race. Politicians are not exempted from prosecution for making statements. Making statements that affects a minority like the Moroccans in the Netherlands in its self-esteem and undermine the respect for the equality of others, as the foundation of a democratic and pluralistic society is criminal under Dutch law.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>Political actors are not allowed under Dutch criminal law to make insulting statements about racial or ethnic groups. Statements insulting racial groups are criminal under Article 137c of the Dutch criminal code. Moroccans are a racial group under Dutch criminal law and therefore protected by Article 137c.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>"Toch heeft hij [Wilders] er bij zijn uitlating op 19 maart 2014 van afgezien om in de generaliserende aanduiding 'Marokkanen' enige nuance of enig gedragskenmerkend onderscheid aan te brengen. Aldus werd de Marokkaanse gemeenschap in Nederland in haar geheel in diskrediet gebracht en in haar eigenwaarde aangetast<sup>80</sup>. Weliswaar deed de verdachte zijn uitlating op een (partij)bijeenkomst naar aanleiding van de binnenkomende uitslagen van de gemeenteraadsverkiezingen en was in zoverre sprake van een politieke context, maar dat ontslaat de verdachte niet van zijn bijzondere verantwoordelijkheid als politicus om uitlatingen te vermijden die voeding kunnen geven aan intolerantie en die het respect voor de gelijkwaardigheid van anderen als het fundament van een democratische en pluralistische samenleving ondergraven<sup>81</sup>. Dat geldt naar het oordeel van het hof temeer als de uitlating, zoals hier, voeding geeft aan de negatieve beeldvorming ten aanzien van een bevolkingsgroep die binnen de Nederlandse samenleving een minderheid vormt."</p>

	<p>"Nevertheless, in his statement on March 19, 2014, he [Wilders] refrained from introducing any nuance or any behavioural distinction to the generalizing designation ""Moroccans"". Thus, the Moroccan community in the Netherlands as a whole was discredited and its self-esteem affected. It is true that the suspect made his statement at a (party) meeting in response to the incoming results of the municipal elections and there was a political context to that extent, but that does not relieve the defendant of his special responsibility as a politician to avoid statements that could generate intolerance and undermine the respect for the equality of others as the foundation of a democratic and pluralistic society. In the opinion of the Court of Appeal, this applies all the more if the statement, as here, generates a negative image of a population group that is a minority within Dutch society."</p> <p>The Netherlands, Court of Appeal The Hague (<i>Gerechtshof Den Haag</i>) (2020), Case no. 22-000007-17, 4 September 2020, ECLI:NL:GHDHA:2020:1606, available at: <a href="https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2020:1606">https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:GHDHA:2020:1606</a></p>
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<b>Thematic area</b>	<b>ROMA EQUALITY AND INCLUSION</b> Please provide the most relevant high court decision addressing violations of fundamental rights of Roma and Travellers.
<b>Decision date</b>	24 June 2020
<b>Reference details</b>	The Netherlands, Administrative Jurisdiction Division of the Council of State ( <i>Afdeling Bestuursrechtspraak Raad van State</i> ) (2020), Case no. 201907431/1/R4, 24 June 2020, ECLI:NL:RVS:2020:1484., available at: <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2020:1484">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2020:1484</a>
<b>Key facts of the case</b> (max. 500 chars)	On a caravan site in a town in the Netherlands, a small mobile caravan has been placed behind a regular caravan on the same plot. The small mobile caravan is owned by the daughter of the resident of the regular caravan and serves as a residential unit. Yet, in the zoning plan of municipality, this caravan site may only have three residential units and the

	<p>small mobile caravan constitutes a fourth living unit. The municipality has designated the resident of the small mobile caravan as an offender and imposes a penalty order on her. The person must remove the small mobile caravan from the caravan site and keep it away. In this ruling, the Administrative Jurisdiction Division of the Council of State decided that this decision by the municipality did not violate Article 8 of the ECHR. The person in question challenged the decision by the municipality involving article 8 UNHCR, as living in a caravan is an integral part of her identity as a caravan dweller, which identity needs protection in light of Article 8 of the ECHR. In doing so, she refers to the judgment in Winterstein v. France of the ECHR.</p>
<p><b>Main reasoning/argumentation</b> (max. 500 chars)</p>	<p>The Administrative Jurisdiction Division points out that insofar the penalty order imposed by the municipality can be regarded as an interference with rights as referred to in Article 8, paragraph 1 of the ECHR, this article also contains grounds for limitations. Interference may be justified if it is consistent with the conditions and legitimate purposes set out in paragraph 2 of that article. Interference is possible when provided for by law and necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, the prevention of disorder and criminal offenses, the protection of health or morality or for the protection of the rights and freedoms of others. In that context, a balance must have taken place between the interests of the individual on the one hand and those of the community as specified in the zoning plan as a whole on the other hand. In this case, the interests of the community prevail over the right of the individual.</p>
<p><b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)</p>	<p>Article 8 of the ECHR does not protect living in a caravan when this caravan is not allowed under the zoning plan of the municipality in which the interests of the community, as concerns public safety, prevention of disorder and criminal offenses, the protection of health or morality or for the protection of the rights and freedoms of others, are laid down.</p>
<p><b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)</p>	<p>If a caravan dwelling is not allowed under the local zoning plan a person may be evicted and the eviction of a caravan dweller does not constitute a violation of article 8 of the ECHR.</p>
<p><b>Key quotation in original language and translated into English with</b></p>	<p>“De Afdeling wijst er allereerst op dat voor zover de last onder dwangsom kan worden aangemerkt als een inmenging in rechten als bedoeld in artikel 8 eerste lid EVRM, dit artikel ook beperkingsgronden kent. Inmenging kan gerechtvaardigd zijn, wanneer dit past binnen de voorwaarden en legitieme doelen zoals gesteld in het tweede lid bij dat artikel.</p>

<p><b>reference details</b> (max. 500 chars)</p>	<p>Inmenging is mogelijk wanneer dit bij wet is voorzien en in een democratische samenleving noodzakelijk is in het belang van de nationale veiligheid, de openbare veiligheid of het economisch welzijn van het land, het voorkomen van wanordelijkheden en strafbare feiten, de bescherming van de gezondheid of de goede zeden of voor de bescherming van de rechten en vrijheden van anderen. In dat kader moet een evenwichtige afweging hebben plaatsgevonden tussen de belangen van het individu enerzijds en die van de gemeenschap als geheel anderzijds.”</p> <p>“First of all, the Administrative Jurisdiction Division of the Council of State points out that insofar as the penalty order can be regarded as an interference with rights as referred to in Article 8, paragraph 1 ECHR, this article also contains grounds for limitation. Interference may be justified if it is consistent with the conditions and legitimate purposes set out in paragraph 2 of that article. Interference is possible when provided for by law and necessary in a democratic society in the interests of national security, public security or the economic well-being of the country, the prevention of disorder and criminal offenses, the protection of health or morality or for the protection of the rights and freedoms of others. In that context, a balance must have taken place between the interests of the individual on the one hand and those of the community as a whole on the other.”</p> <p>The Netherlands, Administrative Jurisdiction Division of the Council of State (<i>Afdeling Bestuursrechtspraak Raad van State</i>) (2020), Case no. 201907431/1/R4, 24 June 2020, ECLI:NL:RVS:2020:1484., available at: <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2020:1484">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RVS:2020:1484</a>.</p>
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<p><b>Thematic area</b></p>	<p><b>INFORMATION SOCIETY, PRIVACY AND DATA PROTECTION</b> Please provide the most relevant high court decision related to the topics addressed in the chapter, i.e. in relation to data protection, and/or artificial intelligence systems.</p>
<p><b>Decision date</b></p>	<p>5 February 2020</p>



<b>Reference details</b>	The Netherlands, District Court The Hague ( <i>Rechtbank Den Haag</i> ) (2020), Case no. C-09-550982-HA ZA 18-388, 5 February 2020, ECLI:NL:RBDHA:2020:1878 available at: <a href="https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:865">https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:865</a>
<b>Key facts of the case</b> (max. 500 chars)	<p>In this judgement, the District Court of The Hague ordered the immediate stop of the use of System Risk Indication (SyRI) by the Dutch government. SyRI is a system designed by the Dutch government to process large amounts of data collected by various Dutch public authorities to identify those most likely to commit benefits fraud.</p> <p>SyRI links together on a large-scale personal data of citizens from databases of public authorities and companies. With the use of secret algorithms, citizens are subsequently subjected to a risk analysis. When there is an increased risk of breaking one of the many laws that SyRI covers, individuals are included in the Risk Reports Register, which is accessible to many government agencies. The legal basis of SyRI are articles 64 and 65 of the Act on the structure of implementation of work and income (<i>Wet structuur uitvoeringsorganisatie werk en inkomen</i>). A number of organisations started a lawsuit against the Dutch state to stop the use of SyRRI. The Court rules that the right to privacy prevails over the fight against alleged benefits fraud. Shortly after the judgment, the State Secretary of Social Affairs and Employment announced that the system would no longer be used. The State Secretary also announced that the State would not appeal the judgment.</p>
<b>Main reasoning/argumentation</b> (max. 500 chars)	The System Risk Indication (SyRI) used by the Dutch state to detect welfare fraud does not pass the test required by the European convention on human rights of a “fair balance” between its objectives, namely to prevent and combat fraud in the interest of economic wellbeing, and the violation of privacy that its use entailed. The court, therefore, declared the legislation unlawful.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	The right to privacy prevails over the right of the state to detect and fight welfare fraud.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	Result of this judgement is the immediate stop of the System Risk Indication or SyRI (an automated surveillance system for detecting welfare fraud by the Dutch government). Shortly after the judgment, the State Secretary of Social Affairs and Employment announced that the system would no longer be used. The State Secretary also announced that the State would not appeal the judgment.

<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>"De rechtbank zet de inhoud van de SyRI-wetgeving in het licht van de doelen die de SyRI-wetgeving dient af tegen de inbreuk op het privéleven die de SyRI-wetgeving oplevert. Zij is van oordeel dat de SyRI-wetgeving, voor zover deze de inzet van SyRI-betreft, niet voldoet aan de 'fair balance' die vereist is voor de conclusie dat sprake is van een gerechtvaardigde inmenging in de zin van artikel 8 lid 2 EVRM."</p> <p>"The court weighs the substance of the SyRI legislation in light of the aims it pursues against the violation of private life the SyRI legislation brings about. The court is of the opinion that the SyRI legislation, insofar as it concerns the application of SyRI, does not strike the 'fair balance' required for the conclusion that there is a justified interference within the meaning of Article 8 paragraph 2 ECHR."</p> <p>The Netherlands, District Court The Hague (<i>Rechtbank Den Haag</i>) (2020), Case no. C-09-550982-HA ZA 18-388, 5 February 2020, ECLI:NL:RBDHA:2020:1878 available at: <a href="https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:865">https://uitspraken.rechtspraak.nl/inziendocument?id=ECLI:NL:RBDHA:2020:865</a></p>
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<b>Thematic area</b>	<b>RIGHTS OF THE CHILD</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
<b>Decision date</b>	7 April 2020
<b>Reference details</b>	The Netherlands, Supreme Court ( <i>Hoge Raad</i> ) (2020), Case no. 19/03282, 7 April 2020, ECLI:NL:HR:2020:626, <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2020:626">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2020:626</a>
<b>Key facts of the case</b> (max. 500 chars)	This case concerns the assessment of an appeal lodged by a convicted minor against the determination and processing of his DNA profile. More specifically, it concerns the question whether a court should include in that assessment the age of the convicted person at the time when the offence was committed. There was a lack of clarity about how the Dutch DNA Testing of Convicted Persons Act ( <i>Wet DNA-onderzoek bij veroordeelden</i> or <i>Wdov</i> ) should be implemented on convicted minors. Courts varied whether or not a convict's minor was an exception for DNA collection. The Supreme Court ruled that court must assess on a case-by-cases basis whether DNA should be taken from a minor convicted of a crime.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The Supreme Court ruled that age must be taken into account when a court decides whether the DNA should be taken of convicted person who was a minor when the offence was perpetrated. Although the relevant act (Dutch DNA Testing of Convicted Persons Act) does not specify age as a factor in determining whether DNA should be taken, the Supreme Court decided that a court must take into account the fact that the convicted person was a minor at the time the offence was committed.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	In the Netherlands, there was a lack of clarity in law about whether age should be taken into account when a court had to decide whether the DNA of a minor convicted of crime should be taken. Courts varied whether or not the age of a minor was an exception for DNA collection.
<b>Results (sanctions) and key consequences or</b>	Result of this ruling by the Supreme Courts is that the age of a convicted minor must be taken as a ground for exception by a court. The courts must assess on a case-by-case basis

<p><b>implications of the case</b> (max. 500 chars)</p>	<p>whether DNA should be taken (and subsequently stored in database) from a minor convicted of a crime.</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>„Hieraan kan worden toegevoegd dat, hoewel in de Wet geen onderscheid wordt gemaakt tussen meerderjarigen en minderjarigen, de rechter bij zijn oordeel of sprake is van “bijzondere omstandigheden waaronder het misdrijf is gepleegd” de omstandigheid dat de veroordeelde ten tijde van het plegen van het feit minderjarig was moet betrekken. Of, en in welke mate bijzondere omstandigheden aan de orde zijn, zal afhangen van de omstandigheden van het geval. Een relevante factor in dit verband kan allereerst zijn of de gevolgen van het bepalen en verwerken van het DNA-profiel evident disproportioneel zijn, gelet op de omstandigheid dat het feit is begaan toen de veroordeelde minderjarig was. Daarnaast kan de rechter betrekken of, mede gelet op de omstandigheden waaronder het misdrijf is gepleegd en de leeftijd van de veroordeelde ten tijde van het misdrijf, sprake is van een gering recidivegevaar. Daarvoor kan ook van belang zijn of aanwijzingen bestaan voor eerder gepleegde relevante misdrijven.”</p> <p>„It can be added that, although the Act does not distinguish between adults and minors, the judge, when deciding whether there are 'special circumstances in which the offence was committed', must take into account the fact that the convicted person was a minor at the time the offence was committed. Whether, and to what extent, special circumstances are involved will depend on the circumstances of the case. A relevant factor in this context may be, first, whether the consequences of determining and processing the DNA profile are evidently disproportionate, given the fact that the offense was committed when the convicted person was a minor. In addition, the judge can determine whether, partly in view of the circumstances under which the crime was committed and the age of the convicted person at the time of the crime, there is a low risk of reoffending.”</p> <p>The Netherlands, Supreme Court (<i>Hoge Raad</i>) (2020), Case no. 19/03282, 7 April 2020, ECLI:NL:HR:2020:626,  <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2020:626">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:HR:2020:626</a></p>

<b>Thematic area</b>	<b>ACCESS TO JUSTICE, INCLUDING RIGHTS OF CRIME VICTIMS</b> Please provide the most relevant high court decision relating to the topics addressed in this chapter.
<b>Decision date</b>	21 October 2020
<b>Reference details</b>	The Netherlands, Court of Appeal The Hague ( <i>Gerechtshof Den Haag</i> ) (2020), Case no. K20/220108, 21 October 2020, ECLI:NL:GHDHA:2020:2352, available at: <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHDHA:2020:2352">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHDHA:2020:2352</a>
<b>Key facts of the case</b> (max. 500 chars)	This case concerns a Nigerian woman who has been a victim of human trafficking in Italy and who pressed charges against a person in Italy who forced her into prostitution in Italy. The Dutch Public Prosecution Service decided not to prosecute the person because it has no jurisdiction in Italy. Furthermore, the case papers do not provide sufficient leads to transfer the investigation to the Italian authorities. The Nigerian woman filed a complaint with the Court of Appeal about the Public Prosecutor's decision not to prosecute. The Court of Appeal supported the decision by the Public Prosecution Service not to prosecute the person. Court of Appeal therefore agrees with the Public Prosecution Service that in this case the Netherlands has no jurisdiction to prosecute possible suspects and that the case has therefore been dismissed on good grounds.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The counsel of the complainant argued argues that the Netherlands should ensure that criminal prosecution in another country (Italy in this case) is made possible in view of the objectives set out in the Directive 2004/81/EU, Directive 2011/36/ EU and Directive 2012/29/EU. The Court decided that is not the case, because the Dutch Public Prosecution Service has no jurisdiction in Italy.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	A victim must press charges against the person who allegedly committed the crime in the EU Member State where the criminal offences took place.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The Public Prosecution Service is not obliged to prosecute a person living in another EU Member State when the criminal offences committed by this person have taken place in another EU Member State. The victim's rights contained in the EU Directives - as

	<p>implemented in national legislation - can be invoked in any Member State. There is nothing to prevent the complainant from pressing charges in Italy and enforcing her rights there</p>
<p><b>Key quotation in original language and translated into English with reference details</b> (max. 500 chars)</p>	<p>“Voor zover de raadvrouw betoogt dat op de Nederlandse autoriteiten de positieve verplichting rust om er zorg voor te dragen dat de rechten die klagster als slachtoffer in een strafrechtelijk onderzoek in Nederland heeft, worden overgedragen aan Italië, overweegt het hof dat die stelling geen steun vindt in het recht en dat eerder genoemde richtlijn 2011/36/EU in het bijzonder daartoe ook niet noopt. Op de in die richtlijn opgenomen ‘slachtofferrechten’ - zoals deze in de nationale wetgeving nader zijn geïmplementeerd - kan bovendien in iedere lidstaat een beroep worden gedaan. Niets staat klagster in de weg aangifte te doen in Italië en aldaar haar rechten te effectueren.”</p> <p>“Insofar as the counsel argues that the Dutch authorities have a positive obligation to ensure that the rights of the complainant as a crime victim in a criminal investigation in the Netherlands are transferred to Italy, the court finds that this assertion is not supported in law and that the aforementioned Directive 2011/36/EU in particular does not require this in particular. Moreover, the 'victim's rights' contained in that directive - as implemented in national legislation - can be invoked in any Member State. There is nothing to prevent the complainant from pressing charges in Italy and enforcing her rights there.”</p> <p>The Netherlands, Court of Appeal The Hague (<i>Gerechtshof Den Haag</i>) (2020), Case no. K20/220108, 21 October 2020, ECLI:NL:GHDHA:2020:2352, available at: <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHDHA:2020:2352">http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:GHDHA:2020:2352</a></p>

<b>Thematic area</b>	<b>Developments in the implementation of the Convention on the Rights of Persons with Disabilities (CRPD)</b> Please provide the most relevant high court decision making reference to the CRPD or employing the CRPD in their reasoning.
<b>Decision date</b>	17 April 2020
<b>Reference details</b>	The Netherlands, District Court Noord-Nederland ( <i>Rechtbank Noord-Nederland</i> ) (2020), Case no. AWB - 19_1898, 17 April 2020, ECLI:NL:RBNNE:2020:1695, available at: <a href="http://deeplink.rechtspraak.nl/uitspraak?id=ECLI:NL:RBNNE:2020:1695">http://deeplink.rechtspraak.nl/uitspraak?id= ECLI:NL:RBNNE:2020:1695</a>
<b>Key facts of the case</b> (max. 500 chars)	This case concerns a person with a disability who has been assigned a financial administrator by the municipal authorities because of insolvency. The person wants special assistance in this matter and considers the administrator assigned to him as not sufficient. He submitted a request to the municipality for special assistance. The municipality rejected his request. The person decided to challenge this decision invoking article 12 subsection 4 of the CRPD. The courts decided that article 12 subsection 4 of the CRPD is not immediately applicable. The court rejects the challenge and confirms the decision by the municipality.
<b>Main reasoning/argumentation</b> (max. 500 chars)	The court must assess ex officio whether there is a direct effect. That is the case if that provision is unconditional and sufficiently precise to be applied in the national legal order without question as an objective law, while no further action is required for its implementation or operation. The court is of the opinion that Article 12, paragraph 4, of the Convention does not comply with this, so that that the provision has no direct effect.
<b>Key issues (concepts, interpretations) clarified by the case</b> (max. 500 chars)	This ruling clarifies that article 12 paragraph 4 of the CRPD is not immediately applicable.
<b>Results (sanctions) and key consequences or implications of the case</b> (max. 500 chars)	The decision by a municipality to reject special assistance for a person with disabilities on top of the financial administrator assigned by the municipality is confirmed. The plaintiff prosecutor invoked article 12 paragraph 4 of the CRPD to overturn the decision by the municipality but the court decided that this provision is not immediately applicable.

**Key quotation in original language and translated into English with reference details** (max. 500 chars)

"De rechtbank dient voorts te beoordelen of de bepaling waar eiseres zich op beroept, te weten artikel 12, vierde lid, van het Verdrag, rechtstreekse werking heeft. Daaraan doet niet af dat partijen ter zitting hebben aangegeven dat zij beiden van mening zijn dat die werking aan dat artikel toekomt. De rechtbank dient de vraag of er sprake is van rechtstreekse werking ambtshalve te beoordelen. Dat is het geval als die bepaling onvoorwaardelijk en voldoende nauwkeurig is om in de nationale rechtsorde zonder meer als objectief recht te worden toegepast terwijl voor de uitvoering of werking daarvan geen verdere handeling is vereist. De rechtbank is van oordeel dat artikel 12, vierde lid, van het Verdrag daar niet aan voldoet, zodat aan die bepaling geen rechtstreekse werking toekomt. De rechtbank kent daarbij betekenis toe aan de parlementaire geschiedenis van de procedure tot goedkeuring van het Verdrag."

"The court must further assess whether the provision which the plaintiff invokes, namely Article 12, paragraph 4, of the Convention, has direct effect. This is not altered by the fact that both parties involved indicated at the hearing that they both are of the opinion that the provision applies immediately. The court must assess ex officio whether there is a direct effect. That is the case if that provision is unconditional and sufficiently precise to be applied in the national legal order without question as an objective law, while no further action is required for its implementation or operation. The court's opinion is that Article 12, paragraph 4, of the Convention does not comply with this, so that that provision has no direct effect. The court takes the parliamentary history on the ratification of the Convention into account."