



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Initial report submitted by the Netherlands under  
article 35 of the Convention, due in 2018\* \*\***

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\* The present document is being issued without formal editing.

\*\* The annexes are on file with the Secretariat and are available for consultation. They may also be accessed from the web page of the Committee.

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## I. Introduction

1. The Kingdom of the Netherlands signed the UN Convention on the Rights of Persons with Disabilities of 13 December 2006 (hereinafter referred to as: the Convention) on 30 March 2007. Since the Convention was signed the Kingdom has undergone constitutional restructuring.<sup>1</sup> The Convention was approved for the entire Kingdom on 12 April 2016. However, each country decides separately on its ratification and implementation.

2. The Netherlands ratified the Convention on 14 June 2016, with the exception of the Caribbean Netherlands. It was decided that the Convention would not apply there for the time being. The Convention entered into force in the European part of the Netherlands on 14 July 2016.

3. This is the first report by the Netherlands to the Committee on the Rights of Persons with Disabilities (hereinafter referred to as: the Committee). In accordance with Article 35 of the Convention this report indicates which (statutory) measures have been taken prior to the ratification by the Netherlands in order to fulfil the obligations under the Convention, as well as the progress that has been made since the Convention entered into force. Upon the ratification the Netherlands has made, or repeated, a number of declarations.<sup>2</sup>

4. The Netherlands has not yet signed the Optional Protocol to the Convention, which relates to the individual right to complain to the Committee. The Dutch government has asked the Council of State – the independent government adviser on legislation and administration and the country’s highest general administrative court – to advise on the consequences of ratification of the Optional Protocol to the International Convention on Economic, Social and Cultural Rights for the Dutch legal system. This advice, which may also have implications for the decision on whether to sign the Optional Protocol to the Convention, is currently being studied.

5. The Kingdom of the Netherlands is party to various international conventions which protect and safeguard fundamental human rights. Consequently, this report does not indicate, for each separate article of the Convention, whether the right in question is (also) protected under other conventions. This is relevant for, among other things, the protection of the right to life (Article 10), freedom from exploitation, violence and abuse (Article 16), protecting the integrity of the person (Article 17), liberty of movement and nationality (Article 18), the right to live independently and be included in the community (Article 19), freedom of expression and opinion, and access to information (Article 21), respect for home and the family (Article 23) and the right to health (Article 25).

### Structure of the report

6. The report has been structured with due regard for the Harmonized Guidelines of the United Nations<sup>3</sup> and the guidelines<sup>4</sup> issued by the Committee.

7. The Netherlands is a decentralised unitary state with authorities spread over numerous equal administrative layers. Both the national government and municipalities are responsible for implementing the Convention.

8. Municipalities in the Netherlands have considerable policy freedom in the ‘social domain’ (which includes all initiatives by the municipalities in relation to work, participation and self-reliance, support and youth care). The municipalities’ responsibility

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<sup>1</sup> See Annex 1 – Kingdom of the Netherlands. One Kingdom – Four Countries; European and Caribbean.

<sup>2</sup> Interpretive statements were made in the case of Articles 12, 14, 25, under a, and 29 of the Convention. Interpretative statements were repeated in the case of Articles 10, 15, 23 and 25, under f, of the Convention.

<sup>3</sup> Guidelines on an expanded core document and treaty-specific targeted reports and harmonized guidelines on reporting under the international human rights treaties’, 9 June 2004, HRI/MC/2004/3.

<sup>4</sup> Guidelines on treaty-specific document to be submitted by states parties under article 35, paragraph 1, of the Convention on the Rights of Persons with Disabilities’, 18 November 2009, CRPD/C/2/3.

for implementing the Convention at local level is laid down in a number of statutory regulations. The Association of Netherlands Municipalities is a partner in terms of implementation and supports the municipalities. In practice individual municipalities often draw up a local inclusion agenda.

9. The report is a clarification of the (statutory) measures (to be) taken in the period before and since the ratification by the Netherlands in order to promote and protect the rights of persons with disabilities.

10. The Ministry of Health, Welfare and Sport is the coordinating ministry for the implementation of the Convention. This report was drawn up in cooperation with the Ministries of Foreign Affairs, the Interior and Kingdom Relations, Infrastructure and Water Management, Education, Culture and Science, Social Affairs and Employment, Justice and Security, Economic Affairs and Climate Policy and also with the parties which are partners at administrative and execution level in terms of implementing the Convention, namely the employers' federation, VNO-NCW, business organisation, MKB-Nederland, the Association of Netherlands Municipalities and the Alliance for the implementation of the Convention (a partnership of interest groups).

### **Consultation with interest groups**

11. In the spring of 2018 various interest groups participated in a consultation meeting to discuss a draft of the report per treaty article. The participants were given an opportunity to give their general opinion on the draft report. A summary report of this consultation meeting is included as an annex (annex 2). The report is a representation of the opinions and views of the participants and are therefore their responsibility. The report does not contain any comments by the government. The Alliance is going to draw up a detailed 'shadow report' itself.

12. The comments which the organisations made relate to, among others, the following themes:

- Decentralisation of tasks: the 'non-committal approach' in municipalities when it comes to implementing inclusive policy and the consequences of the decentralisation of tasks to local government are leading to differences in approach and provision per municipality. They wonder how central government interprets its 'system responsibility';
- Accessibility is unsatisfactory in various areas. This concerns physical and social accessibility:
  - Buildings (the regulations are too limited; the point of departure must be 'design for all');
  - Transport (both public transport and transport for target groups);
  - Social accessibility: the disability itself does not restrict but society has a 'restricting effect' in, for example, (negative) treatment and the (insufficient) availability of information.
- Education: the Dutch education system (regular and special education) is not inclusive;
- Employment: not enough people with disabilities are in work. The right to a minimum wage does not appear to apply to them;
- Housing: a free choice of home is often unrealistic and relocating is difficult in the event of dependency on facilities as well as due to financial regulations.

### **The Caribbean part of the Kingdom**

13. The Ministry of Health, Welfare and Sport commissioned an investigation of the extent to which legislation, policy and practice on Bonaire, Sint Eustatius and Saba comply with the Convention and what is necessary for ratification in the short and longer term. The report of the investigation was published on 31 August 2016. It has transpired that updating

is required in various fields in order to raise the position of persons with disabilities to a level which is acceptable within the European Netherlands.

14. In consultation with Bonaire, Sint Eustatius and Saba a decision has been taken for a phased approach, whereby local measures are taken first in order to improve the situation in practice. The islands have considerable cultural and social differences, meaning that the approach required will be different for each island. Bonaire, Sint Eustatius and Saba have drawn up project plans with a view to implementing such measures.

15. The ratification of the Convention in Aruba, Curaçao and Sint Maarten is currently being discussed within the Kingdom. As independent countries within the Kingdom they can decide themselves how and how quickly they want to implement the Convention. In 2018, the Netherlands offered, with due regard for this individual responsibility, to provide support with the implementation of the Convention.

## **II. General provisions of the Convention (Articles 1–4)**

### **Article 1 and 2**

#### **Purpose and Definitions**

16. In the Netherlands we believe that everyone should be able to participate in society. Unfortunately, that is not always the case. Persons with disabilities regularly come across barriers, literally and figuratively, which make it difficult or impossible for them to exercise all their human rights and fundamental freedoms on the basis of equality with others.

17. It is estimated that there are more than two million persons with disabilities in the Netherlands. There are no clear figures available on the number of persons with disabilities. The main reason for this is that there is no clear definition of ‘disability’. This is related to the fact that the group of persons with disabilities is very diverse. The group may include people with mental, physical, psychological or sensory disabilities. However, people with dyslexia, autism or chronic illnesses may also experience barriers in society.

18. In line with Article 1 of the Convention Dutch legislation and regulations therefore do not use an exhaustive definition of the term ‘disability’. Neither has the concept of ‘long-term’ been further detailed. Whether persons experience barriers due to their disabilities also depends on the social and physical context in which they function. That is why, in the Netherlands, various criteria are used in regulations and policy, depending on the issue. The term ‘disability’ is often interpreted broadly.

19. The interpretation applied by the Netherlands to the terms ‘communication’ and ‘language’ corresponds to the interpretation given to these terms in the Convention.

20. According to Article 2 of the Convention reasonable accommodation means necessary and appropriate modification and adjustments not imposing a disproportionate burden, where needed in a particular case’. The definition indicates that the adjustments in question have to be necessary. Under Article 2 of the Dutch Act on Equal Treatment on the Grounds of Disability or Chronic Illness, those targeted by the direct and indirect discrimination prohibition stipulated in it (see Article 5) are obliged to implement effective adjustments, depending on the individual’s needs, unless this would impose a disproportionate burden. Article 2 of the Act on Equal Treatment on the Grounds of Disability or Chronic Illness corresponds with the term reasonable accommodation as used in the Convention. The words ‘depending on the individual’s needs’ indicate that it concerns what is needed in a specific case. The term ‘effective’ implies the adjustment is appropriate and necessary.

21. Those targeted by the prohibition are obliged, depending on the individual’s needs, to implement effective adjustments unless this would impose a disproportionate burden. The duty to explore the situation is important in this context. This implies that the party to whom the request is addressed must ask the party requesting an effective adjustment to what extent a solution is possible. Naturally, the options of solving the problem available to the person involved also play a role where it concerns the question of what is necessary.

22. Whether an adjustment to be made imposes a disproportionate burden on the party targeted by the prohibition depends on the extent to which the advantages outweigh the disadvantages of the provision in question. Generally speaking, this means that the various factors will be broadly considered. With regard to the advantages an assessment is made of the positive impact on realising an inclusive society and the benefits of improved accessibility for the organisation. Examples include increasing the potential target group by removing obstacles and generally improving safety for visitors and workers alike. Given that the focus is always on what is needed in the actual situation in a specific case, it is impossible to state in general terms when an adjustment is reasonable and when it imposes a disproportionate burden.

23. The Netherlands recognises the importance of undertaking or promoting research into, and the development of, universally designed goods and services. The point of departure of inclusive policy and ‘design for all’ is that accessibility is taken into consideration as early as in the stages of design and production of goods and services in order to avoid the need for adjustments afterwards. Inclusive policy is based on the assumption that not only the government but also society is responsible for improving participation, in consultation with the various target groups. Mutual consultation generates new insights and can prevent the formation of any new barriers. Various entrepreneurs are already implementing ‘design for all’ in the design and production of goods and services.

24. The above feasible developments were boosted in 2016 by a proposal drafted by the European Commission for a Directive on the approximation of the laws, regulations and administrative provisions of the Member States as regards the accessibility requirements for products and services (COM (2015) 615). The proposal intends to achieve improved functioning of the internal market by imposing communal, harmonised requirements on certain products and services identified in the proposal (such as PCs, ATMs, ticketing and check-in machines, e-books and e-readers, certain transport services, telephony and e-commerce).

25. The European Commission considered that setting uniform European accessibility requirements would allow increased accessibility to these products and services for persons with disabilities. The political negotiations with the European Parliament started in the spring of 2018. The scope and interpretation of the Directive has therefore not yet been determined.

### **Article 3 and Article 4 General principles and General obligations**

26. Pursuant to Articles 93 and 94 of the Dutch Constitution treaty provisions which may be generally binding based on their content are to be implemented by the judicial and administrative bodies, if necessary by excluding application of any statutory regulations which are contrary to a treaty provision. Such a treaty provision gives citizens rights or imposes obligations on them and can be invoked by or against them without the intervention of the national legislator. Ultimately the Dutch court decides whether or not a generally binding provision has direct effect. The majority of the provisions of the Convention are, however, insufficiently accurate or concrete to prescribe a solution in an individual case because they do not make explicit which measures the state has to take and how. These provisions do not have a direct effect in the Netherlands.

27. In preparation of the ratification of the Convention, all existing legislation in the Netherlands has been assessed and audited. This concerned a comprehensive assessment of the implementing legislation required in order to fulfil the obligations in the Convention. Further to the audit, two Acts were amended, namely the Act on Equal Treatment on the Grounds of Disability or Chronic Illness and the Dutch Elections Act (within the context of accessibility of polling stations). These have been brought into line with the obligations arising from the Convention. The rest of the regulations have been found in accordance with the Convention.

28. Until 2017 the Act on Equal Treatment on the Grounds of Disability or Chronic Illness was applicable to employment, education, living and public transport. This meant

that the Convention was not fully complied with. With the Act implementing the Convention<sup>5</sup> entering into force, the Act on Equal Treatment on the Grounds of Disability or Chronic Illness was extended in 2017 to cover the complete 'goods and services' field. This is a wide-ranging field that covers, among other things, the retail trade, hospitality industry, culture, sport, leisure, commercial services, care and Internet services. Education was already covered by this field so the explicit reference to education was no longer needed.

29. Persons with disabilities and their representative organisations were involved in the process of drawing up the bill approving the Convention and the bill implementing the Convention, in which the bills are included which were considered necessary in order to ratify the Convention.

30. Consequently, the bills were submitted for consultation purposes to a broad group of parties. These were both client organisations and parties from the business community, as well as employer organisations from the goods and services sector. An Internet consultation was also held to give every citizen the opportunity to familiarise themselves with and respond to the bills, if they so wished. The responses by citizens with disabilities revealed that inclusive education, access to work and accessible public transport were regarded as important prerequisites for participation in society. The importance of increasing awareness was also emphasised.

31. In this regard, the Netherlands used the United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities.<sup>6</sup> These include recommendations on how to remove barriers to equal participation in society.

32. Pursuant to the Convention, work is being done in the Netherlands on a progressive implementation of the obligations arising from the Convention in order to create a society which is inclusive and accessible for everyone. In the coalition agreement (October 2017) a separate section has been dedicated to the 'Inclusive society'. This means that, supplementary to the policy already initiated, measures are being and are going to be taken which contribute to a society in which everyone can participate irrespective of their talents or disabilities. Emphasis is being placed on the importance of the Convention being implemented. This represents a transformation process which has to take shape in society gradually.

#### **'Unlimited participation' implementation programme**

33. Following the ratification of the Convention, the Ministry of Health, Welfare and Sport drew up an implementation plan with the aim of promoting the effective and complete realisation of the general obligations arising from the Convention. During the run-up phase to the drawing up of the implementation plan approximately 40 organisations and institutions were consulted, including various social organisations and people with disabilities.

34. The plan defines the implementation of the Convention as a broad social ambition and task for the national government, municipalities, the business community and social organisations. In terms of executing the plan the national government is cooperating intensively with the above-mentioned administrative partners.

35. A more specific implementation programme was drawn up in 2018 (see annex 3). The ambition of this implementation programme is that people with disabilities should be more able to participate in society in accordance with their wishes and capacities, just like any other person. The main purpose of the programme is to clearly reduce the number of barriers precluding participation by people with disabilities. The programme's term is 2018–2021.

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<sup>5</sup> Act of 14 April 2016 for the implementation of the Convention on the rights of persons with disabilities adopted on 13 December 2006 in New York (Treaty Series 2007, 169).

<sup>6</sup> A/RES/48/96.

36. The 2017 annual report of the Netherlands Institute for Human Rights, in which people with disabilities were themselves involved, constituted an important source when choosing seven lines of action for the implementation programme.

37. The goals for each line of action are:

- Building and Living: the goal of improving the accessibility of buildings and arranging the availability of sufficient, suitable homes and forms of accommodation for people with disabilities;
- Work: the goal of giving people with occupational disabilities more opportunities for a regular job in order to contribute to an inclusive labour market;
- Education: the goal of ensuring that all children have access to education which is suitable for their needs. Another goal is to ensure that pupils and students can find support and supervision more easily;
- Transport: the goal of ensuring that people with disabilities are able to use public transport more and more independently and of improving transport for target groups;
- Participation & Accessibility: the goal of offering people more opportunities to participate in areas such as sport, culture, libraries, media and the elections. Another goal is gradually to increase the number of accessible websites and apps and to make the information provided by government bodies and other parties more accessible and understandable;
- Care and support: the goal of safeguarding good accessibility and quality of care and support, because that is a primary precondition for people with a life-long disability which effects all areas of life to participate in society;
- The state as an organisation: the goal of the national government being an accessible organisation within an inclusive society. This not only means physical access to government buildings and websites, information and systems, but also that the state as an employer is open to any employee.

38. The partners behind the implementation plan are contributing to the implementation programme:

- The involvement of persons with disabilities is a precondition for the execution of the implementation programme. This involvement will be given actual shape through the activities for which the Alliance is taking responsibility, but is also embedded in all the activities of the other partners. In this way the plan is an interpretation of the principle of ‘Nothing about us without us’: in all elements of the approach, working methods are developed and used to structure the involvement and participation of experts by experience;
- The Association of Netherlands Municipalities is providing an extra impulse to the initiatives taken by municipalities which focus on the full participation of their residents with disabilities. This includes expanding existing initiatives and making them more visible with 25 frontrunner municipalities, so that all Dutch municipalities can learn from this and by supporting other municipalities in their attempts to achieve a more inclusive society;
- The ambition of VNO-NCW and MKB-Nederland is not only to increase awareness about the importance of accessibility, but above all to broaden the opportunities for people with disabilities and to promote inclusive thinking in the business community, in among other ways by communicating with 50,000 entrepreneurs.

39. Awareness is a programme-wide priority. The focus is to ensure that the Convention gradually becomes part of the DNA of government bodies, companies, organisations and people who have a responsibility in terms of its implementation.

40. The programme budget for realising the implementation is €1 million per year over the 2017–2019 period. These funds are on top of the regular budget made available from the general state budget for all policy lines. The funds have been allocated to the Alliance, the Association of Netherlands Municipalities and VNO-NCW for projects intended to

structure the implementation locally and in the various sectors. An interim evaluation will take place early 2019 so that the financing can be reassessed.

41. In addition to the 'Unlimited participation' programme, the government is also giving explicit attention to the people with disabilities target group via other projects and programmes. In April 2018, the 'Care for Young People' programme was launched which also focuses on children with disabilities. The 'Disabled Care Quality Agenda' programme is to be launched after the summer of 2018.

#### **Other relevant developments**

42. In 2015, a number of Dutch acts relating to care and support for people at home and in care institutions were thoroughly revised ('reform of long-term care'). The acts in question play a crucial role in the social domain, namely the Social Support Act, the Youth Act, the Health Insurance Act and the Participation Act.

43. The Social Support Act, which dates from 2007, was completely revised in 2015. Pursuant to this Social Support Act 2015, municipalities are responsible for social support, including support for self-reliance and the participation of people with disabilities, chronic psychological or psychosocial problems, where possible in their own living environment. The term also includes support for people who, in connection with safety risks as a consequence of domestic violence or otherwise, have left their homes and need sheltered accommodation and care.

44. Municipalities have also been instructed to promote the accessibility of provisions, services and spaces for people with disabilities and, by doing so, to help realise an inclusive society.

45. This concerns decentralised policy with considerable policy scope for municipalities to decide on the entitlement to and the form of support. In order to support their residents, municipalities must provide 'general provisions' such as community work, provision of meals, the provision of odd jobs, etc. Besides these general provisions, people can also contact the municipality if they need any form of support; this should be easily accessible and without any prescribed form for doing so. The Act stipulates that, in such instances, the municipality must assess the requirements, characteristics and individual circumstances of the person in question. This exploration is referred to as the 'kitchen table meeting' in order to emphasise the equality of the municipality and the client. The municipality also has to assess other areas of living such as care, education and philosophy of life and this may lead to a decision to create a 'bespoke provision'. One example is domestic help, a modification to a home, a mobility scooter, a wheelchair or individual coaching with general daily tasks.

46. The term bespoke provision already indicates that the provision has to be suitable for the individual and must, in accordance with the law, 'contribute to creating a situation in which the client can be self-reliant or can participate and stay in their home environment for as long as possible, or to fulfilling the need for sheltered accommodation or care'.

47. The exploration also assesses the element of 'one's own capacity', in other words can the person independently reduce or eradicate limitations which they experience, using the usual sources of support, volunteer care or other people in their social networks, or by using general provisions. People who need this can rely on independent client support, free of charge. The object is to support the client with information and advice on the application process and the acquisition of a suitable provision.

48. The law guarantees the right to make one's own choice for the desired support. Subject to certain conditions people can purchase the required care themselves using a so-called 'personal healthcare budget'. People with disabilities can use this to retain (more) control of their lives and select healthcare providers who can provide support in the desired way and at the desired times. However, this right is subject to certain conditions: the person must actually be able to take control, such as being able to make working agreements with the care provider(s) and keep records. The budget is not paid directly into the client's account, but is paid out to the healthcare provider by an implementing body which is supervised by the national government.



### III. Specific provisions of the Convention

#### Article 5 Equality and non-discrimination

##### Legislative safeguards

49. Article 1 of the Dutch Constitution states: ‘All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race or sex or on any other grounds whatsoever shall not be permitted.’ The current government’s coalition agreement states that this article will be supplemented with the grounds of sexual orientation and disability. A bill to this effect has already been submitted to Parliament. The Act on Equal Treatment on the Grounds of Disability or Chronic Illness provides additional substance to the equal treatment standard laid down in Article 1 of the Constitution where it concerns the ground of disability or chronic illness.

50. The Act on Equal Treatment on the Grounds of Disability or Chronic Illness prohibits any direct or indirect discrimination on the grounds of disability or chronic illness. The term ‘direct discrimination’ means: where a person is treated differently on the ground of disability or chronic illness than another person is, has been, or would be treated in a comparable situation. The term ‘indirect discrimination’ means: where an apparently neutral provision, criterion or conduct particularly affects people with disabilities or chronic illnesses compared to other people.

51. The Dutch Criminal Code states that it is a criminal offence if anyone:

- Incites hatred of or discrimination or violence against persons because of, among other things, their physical, psychological or mental disability (Article 137d); and
- Takes part in, or provides other physical support to activities aimed at discrimination against persons because of, among other things, their physical, psychological or mental disability (Article 137f).

52. The Criminal Code states that it is a criminal offence if ‘any person who, in the discharge of his office, practice of a profession or in conducting a business, undertakes or refrains from undertaking, for no reasonable grounds, certain acts which can have the purpose or effect in regard of persons with a physical, psychological or mental disability of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the field of politics or economics, in social or cultural matters or any other area of social life (Article 429quater).

##### Investigation into reported incidents of discrimination

53. Anyone who feels discriminated against due to their disability or chronic illness can (if their case falls under equal treatment legislation) submit a complaint to the Netherlands Institute for Human Rights – see also Article 33). This Institute investigates complaints and gives its opinion and any recommendations to prevent discrimination in the future. The opinions of the Institute are recommendations and, if the accused does not comply, the aggrieved party can still take legal action.

54. Since the founding of the Institute in 2012, there has been an increase in the number of questions or reports concerning disability and chronic illness: from 242 in 2012 to 810 in 2017. According to the Institute the continuing increase is related to the Convention having entered into force. Of all the opinions issued by the Institute in 2017, 30% addressed disability or chronic illness. In 2017, most questions and 49% of the opinions related to providing and delivering goods and services (including education). The Institute received a lot of questions about the performance of the municipality within the framework of the Social Support Act 2015 and participation in elections. However, the Institute is not authorised to judge on unilateral government performance. Within the framework of the Social Support Act 2015, people can appeal against decisions by a municipality to the administrative court.

55. Under the Municipal Anti-Discrimination Facilities Act municipalities are obliged to ensure that all residents confronted by discrimination can contact an independent, local anti-discrimination bureau for assistance. The anti-discrimination bureaus have two obligations, namely to provide assistance if discrimination is reported and to register complaints about discrimination.

56. The overall picture of discrimination incidents and reports registered by the police in 2017, supplemented with details from anti-discrimination bureaus, the Netherlands Institute for Human Rights and the Internet Discrimination Hotline reveals a striking increase in the number of reports of discrimination on the ground of disability. This may have to do with the Convention having entered into force, specific publicity campaigns and media attention paid to the implementation of the Convention (see Article 8).

## **Article 6**

### **Women with disabilities**

57. One of the goals of the Dutch emancipation policy is to ensure gender equality in Dutch society. This policy focuses on education, safety, health, employment market, media, politics, law and forms of accommodation. By entering into strategic partnerships, providing project subsidies and financing government authorities such as municipalities, work is being done on, among other things, breaking with stereotypical perceptions of masculinity, femininity and relationships, promoting (social) safety for women and equality on the employment market. In the Netherlands there is (currently) no specific policy on gender equality in relation to the rights of persons with disabilities.

## **Article 7**

### **Children with disabilities**

58. In the Netherlands both children with and without disabilities have the same rights. Parents of children with disabilities can, if necessary, obtain parenting support from their municipalities. Under the Youth Act, municipalities are responsible for arranging comprehensive assistance for young people and prevention inter alia aimed at:

- Prevention and early identification/intervention in the event of problems relating to development and parenting, psychological problems and disorders;
- The promotion of the parents' parenting skills; and
- The activation, restoration and reinforcement of the individual capabilities and problem-solving capacity of young people, their parents and the people in their social environment based, wherever possible, on their own contribution and responsibilities.

59. Under the International Convention on the Rights of the Child, all children have the right to participate. If a child or young person with a disability experiences problems in terms of finding the right provisions, or suitable education, various types of support will be provided. For example, the Dutch Ministry of Education, Culture and Science provides education consultants, free of charge. These consultants are independent and can advise students about their choice of school or various options in terms of the necessary educational support. Education care consultants are also available to advise children and parents about the comprehensive range of education and care available.

60. Children with disabilities are entitled to be heard in cases which affect their lives. Under the Youth Act, youth assistance organisations are obliged to set up a client council to organise the involvement of children with disabilities, where necessary with suitable support. In secondary special education every school has a participation council whose members include parents, teachers and students who all join in discussions about the programme on offer. Every region has an 'education-that-fits-partnership'.

## **Article 8**

### **Creating awareness**

61. Awareness is a priority within the implementation programme. The focus is to ensure that the Convention gradually becomes part of the DNA of government bodies, companies, organisations and people who have a responsibility in terms of its implementation. The implementation programme and the activities carried out on the basis of this plan are creating the foundation for taking additional concrete steps (see Articles 3 and 4). This spreads and reinforces a movement which has already been initiated by a large number of organisations, companies and sectors. Good examples are used to activate parties and sectors which are lagging behind and need help. The implementation programme consists of activities and measures, but is also an invitation to develop and implement additional ideas together with these parties and the people concerned. Various parties in the Netherlands have organised awareness activities in recent years.

#### **Nationally**

62. Various social partners use campaigns to bring the Convention to the attention of organisations, companies and the public at large. Examples are ‘Netherlands Unlimited Campaign’ initiated by the Dutch Association for Care and Support for People with Disabilities and the campaign entitled ‘Everyone can join in’ organised by the Netherlands Institute for Human Rights. Moreover, an election was held to find the most accessible municipality in 2018, during which the situation in five nominated municipalities was assessed in terms of physical and digital accessibility, education, work, leisure time and living.

63. Late 2016 and early 2017, the Ministry of Health, Welfare and Sport, in close cooperation with interest groups, ran a national campaign entitled ‘Participating with a disability’. The aim of the campaign was to help remove physical and social barriers which may be experienced by people with mental or physical disabilities. Not only was the campaign intended to raise awareness among people, but also to give them an insight into what they can do to ensure that people with disabilities can participate in society in every way. Particular attention was paid to assistance dogs, with the aim of making it clear to every adult that assistance dogs are welcome to all public areas and companies (in accordance with the Act on Equal Treatment on the Grounds of Disability or Chronic Illness under the terms of which admission of assistance dogs concerns an effective adjustment).

64. The campaign focuses on the personal stories of people with disabilities. That was followed by a mass media campaign with commercials on radio and tv, the internet ([www.meedoenmeteenhandicap.nl](http://www.meedoenmeteenhandicap.nl)) and via social media. The website and communications relating to the ‘Participating with a disability’ campaign have been made accessible to people with disabilities. For example, all texts, tips and videos have been translated into sign language, subtitles have been added to the videos and texts have been written taking into account functional illiteracy, for example, by using pictograms.

65. The measurements taken before and after the campaign revealed that it was much appreciated and scored 8.2/10. This is above the benchmark for government campaigns.

#### **Sectoral**

66. Besides general campaigns aimed at increasing awareness, the same issue of awareness is also being worked on in various sectors and by municipalities at local level.

67. For example the Handicap + Study centre of expertise has developed two infographics about the Convention, aimed at informing institutions and students with a view to increasing awareness in higher education.

68. Under the leadership of the centre of expertise, a model/letter of intent has been drawn up for the education sector with ambitions, process agreements and objectives which higher education/institutions can use to implement the Convention. In primary and secondary education (for students between 4 and 18) a broader approach is used based on

‘education that fits’ for each pupil who needs extra support: there is a focus on information about how to deal with children that are not going to school, the link between education and youth assistance, brochures about tailor-made options for schools and discussion guidelines for parents, students, schools and care organisations about an integral education care arrangement. The Association of Netherlands Municipalities provides municipalities with basic information and a frontrunner programme has been started to enable 25 municipalities that are leading the way in accessibility and inclusion to learn from each other’s experiences. Lessons learned are then communicated to other municipalities.

69. VNO-NCW and MKB-Nederland inform entrepreneurs frequently, systematically and intensively about the importance of increasing accessibility in a broad sense via an extensive communication campaign.

70. In terms of the building sector various activities have been included in the Accessibility for the building sector action plan (see also Article 9) to increase awareness about accessibility and the involvement of experts by experience. This concerns, among other things, the setting up of a ‘Design for All’ masterclass, the development of information material, the drawing up of a manifesto about the importance of accessible (refurbished) buildings and the development of tools relating to accessibility. A large number of awareness activities are also taking place in the field of fire safety for the elderly and people with disabilities.

71. Based on the Employment Market Discrimination and Pregnancy Discrimination action plans, the Dutch government has, since May 2014, been working specifically, with over 60 measures, on the approach to ban employment market discrimination, including a Diversity Charter and an Employment Market Discrimination campaign, with special attention for the disability ground. The follow-up, announced in the coalition agreement (October 2017), to the Employment Market Discrimination Action Plan, in which attention is paid to combating discrimination in application procedures, is currently being worked on.

72. The aim of the ‘People with Possibilities’ project is to get people with psychological vulnerabilities into work by creating awareness among professionals and employers. In this context, the government commissioned the Dutch Association of Occupational Consultants and the Dutch Association of Insurance Medical Consultants to develop an inspiration book and a training module. The products teach professionals and employers to view people with psychological vulnerabilities in a different light and to cooperate more effectively within the education, care, work and income chain. These products have been made available online free of charge via the project website and are actively offered to 20 professional groups that are participating in the project.

## **Article 9**

### **Accessibility**

73. It is often the case that society restricts people rather than the disability itself. People with disabilities experience barriers in many areas, such as the physical environment, education, the employment market and public transport, as well as in terms of accessing information, methods of communication and how they are treated. This means that all public institutions, organisations and companies have to take action. The main purpose of the implementation programme is to bring about a clear decrease in the number of barriers people with disabilities come across and which hamper their participation. The government shares this ambition with a large number of companies and organisations and that is why it works together with as many parties as possible in the implementation process.

### **Accessibility Decree**

74. The Act on Equal Treatment on the Grounds of Disability or Chronic Illness already covered the obligation to make effective adjustments according to need. As of 1 January 2017 the Act on Equal Treatment on the Grounds of Disability or Chronic Illness has been expanded to include ‘goods and services’ (see Articles 3 and 4).

75. The Accessibility Decree<sup>7</sup> imposes rules for the obligation to implement, in any event, provisions of a straightforward nature (provisions which can be put in place relatively quickly, in a way which causes least inconvenience and at no or little expense) and the proportionality of the burden of taking measures. In this latter case the focus is on aspects including scope, resources, nature of the organisation, estimated costs, estimated usefulness, useful life of the measure, safety and feasibility.

76. The Accessibility Decree states that, in consultation with organisations of and for people with disabilities, action plans are to be drawn up which describe how efforts are made to gradually realise general accessibility in the fields of living, work, education, public transport and goods and services. This involves measures for the short and long term, the realisation schedule and the way in which implementation within the sector in question is to be tackled.

### **Buildings and public spaces**

77. All buildings in the Netherlands have to comply with the requirements of the Buildings Decree 2012 in which a distinction is made between new and existing structures. Depending on the way they are used and their surface area demands are made on, among other things, the physical accessibility of new buildings with a view to wheelchair accessibility. The point of departure for existing buildings is that, in the event of refurbishment, the accessibility level shall not drop below the original level.

78. A lot of buildings which are open to the public, such as offices, schools, hotels, shops, cafes and buildings with a health-related function, must have an accessibility section. In residential care buildings there must always be one recreational area in an accessibility section. In high-rise and large residential buildings there must be a communal accessibility section so that people can access their homes via this route. A section like this is subject to requirements in terms of accessible toilets, the width of corridors, height differences, doors and entrances and the route from the public space to the building's entrance.

79. The Environment and Planning Act, which will enter into force on 1 January 2021, stipulates that the state has to draw up an instructional rule which specifies that, in the case of new developments with consequences for the organisation of public outdoor space, the environmental plan has to take account of efforts to enhance accessibility in that space. Incidentally, municipalities already have to focus on accessibility to public space in the context of 'proper spatial planning'.

80. In cooperation with designing, developing, building and advising parties, organisations that defend the interests of people with disabilities and those persons themselves, the Ministry of the Interior and Kingdom Relations has drawn up the Accessibility for the building industry action plan' (see also Article 8).

81. The action plan focuses on the constructional aspects of physical accessibility of buildings (which are open to the public) and homes. In doing so, five priority themes have been established:

- (a) Increase awareness about accessible building (and refurbishing);
- (b) Improve the amount of attention paid to accessibility in the development and building process;
- (c) Develop and make available clear and widely supported standards and guidelines for accessible building;
- (d) Sufficient supply of suitable homes and forms of accommodation for people with disabilities;
- (e) More focus on accessibility in training programmes.

82. For all these themes, activities have been included to be implemented by the parties involved.

<sup>7</sup> Decision of 7 June 2017 containing rules on general accessibility for people with disabilities or chronic illnesses (Decree on Accessibility for Persons with Disabilities or Chronic Illnesses).

83. The point of departure for this action plan is that general accessibility is gradually improved on the basis of voluntary agreements between parties.

84. In the second half of 2017 accessibility scans were performed in seven major government offices, based on the Integral Accessibility Standard in consultation with Ieder(in), an umbrella organisation for people with disabilities. The scans show that the government offices investigated fulfil the statutory framework for accessibility, but also that a number of supplementary measures can be taken to achieve a higher level of quality for independent accessibility. The national government is studying the points for improvement – of which the number and scope vary per building – in consultation with Ieder(in) and will use the experiences to investigate whether measures need to be taken in other government offices.

85. In practice the accessibility of public spaces and buildings is usually a policy priority of municipalities. Various projects have started to make local shopping and entertainment districts more accessible.

86. Dutch entrepreneurs are stimulated via sectoral action plans (see Article 8) and local projects to increase accessibility of their companies by providing them with practical instruments with which they can, for example, make their website more accessible, or remove any barriers at the entrance to their premises.

#### **Accessible workspaces**

87. Dutch health and safety legislation makes it generally obligatory to provide workspaces which are accessible for all employees, including people with occupational disabilities. The legislation stipulates that workspaces and work must tie in with employee capacities as much as can be reasonably demanded. The spaces which an employee with a disability uses in connection with their work must be accessible and the work must be adapted to the employee's capabilities.

#### **Public transport**

88. Since 2004, the Netherlands has been working on accessible public transport via action plans and with specific regulations. The Public Transport Accessibility Decree (2011) and the Public Transport Accessibility Regulation (2012) specify for each type of public transport the timing and percentage that has to be accessible in terms of vehicles (bus, tram, metro, train) and the necessary stops and stations. This is an expensive process during which adjustments are implemented in phases. For example, trains generally have a useful working life of 30 years and early replacement is impossible due to the costs involved. The accessibility requirements therefore apply to new trains.

#### *Results:*

- As of 2017, all train stations are accessible for people with visual disabilities;
- As of 2016, 98% of buses are accessible;
- As of 2016, 46% of bus stops are accessible;
- Metros and metro stops are all accessible;
- Trams in the urban regions of Utrecht, Amsterdam, Rotterdam and Haaglanden are 100, or at least 72, 48 and 26 percent accessible respectively;
- Dutch Railways (NS) provides assistance at 123 stations and that number will increase to 128 in 2018.

#### *The following is scheduled:*

- Tram stops will be made accessible in phases;
- As of 2020, stations will be 70% accessible (lowered entry possible via 76 centimetre platform and lift and/or ramp present);
- As of 2030, travelling on accessible trains will be able from all stations;

- As of 2045, all rolling stock will be accessible;
- As of 2024, assistance will be available for trains that are not independently accessible; this service will be expanded to all stations wherever possible.

89. In 2018, new percentages will be established for bus stops, trams and tram stops in consultation with decentralised authorities.

90. Besides meeting the goals for physical accessibility, the Netherlands also focuses on improving travel information on accessible journeys and on improving treatment by drivers; the Ministry of Infrastructure and Water Management has asked decentralised authorities and transport companies to pay special attention to this issue.

### **Taxi and target group transport**

91. In order to stimulate accessibility of taxi transport, municipalities are consulting with the industry and may impose rules, for example clarifying rules about the transportation of people travelling with assistance dogs, supplementary to the general rule that allowing assistance dogs represents an effective adjustment under the Act on Equal Treatment on the Grounds of Disability or Chronic Illness.

92. In addition the General Terms and Conditions for Taxi Transport apply to the transport companies affiliated to the (largest) trade organisation. These state that assistance dogs must be transported with their owners in all circumstances. Specific legal and organisational provisions apply to the purchase of taxi transport for target groups by municipalities, including people with mental or physical disabilities. In 2017, Stichting Vast = Beter (a foundation) published a revised version of the guidelines for the safe transportation of wheelchair users.

93. A large number of people with disabilities use so-called target group transport. This consists of social-recreational transport, student transport, transport from and to work and daytime activities and seated patient transport and is arranged in a decentralised fashion via various acts (see Article 20).

### **Road infrastructure**

94. The roads, tunnels and the places along the roads where you can rest and eat, whether as a petrol station or otherwise, which are managed by the central government are, in principle, equally accessible for road users with and without functional disabilities.

### **Aviation and Airports:**

95. Accessibility of aviation facilities for people with (mobility) disabilities is regulated primarily by the Chicago Convention, EU regulation 1107/2006 and the Dutch Aviation Act. Detailed requirements apply with regard to clear travel information, parking facilities, the free provision of assistance and support, available aids, the training of personnel and complaints procedures. The supervisory task is vested in the Human Environment and Transport Inspectorate.

### **Shipping and ports**

96. Seagoing and inland navigation vessels for passenger transport comply with existing international and European regulations governing technical requirements relating to physical accessibility for persons with disabilities. Within the framework of the International Maritime Organization and the Convention on Facilitation of International Maritime Traffic guidelines and recommendations apply to the construction and equipping of seagoing vessels, facilities on shore and on board for the safe embarking and disembarking, clear information on transport and safety, on the timetable and services for the transportation of persons with disabilities. The various aspects have been further detailed within Europe.<sup>8</sup>The revised Directive 98/41/EC makes it possible (for an efficient

<sup>8</sup> The European Standard for Technical Requirements in Inland Navigation includes specific rules for passengers with limited mobility on inland navigation vessels. Regulation (EU) No 1177/2010 also regulates the rights of passengers with disabilities who travel via sea or inland waterways. Directive

rescue in the unfortunate event of an accident) for any information relating to disability to be reported to the captain before departure. The information will then be made available to the emergency services in the event of an incident.

### **Interpretation services**

97. In the Netherlands, people with auditory disabilities can request the services of an interpreter at work, in education and other situations in daily life. A payment is then provided for engaging an interpreter in the various situations.

98. In the work situation, people with auditory disabilities can receive a payment for interpretation services for a maximum of 15% of their working hours. An interpreter can also accompany such person to, for example, job interviews, courses and on work-related trips abroad.

99. In terms of someone's living situation a person with an auditory disability can take an interpreter along to, for example, a church, a doctor or a funeral. An application for an interpreter can be submitted to 'Tolkcontact', the organisation providing interpretation services for the living domain. The expectation is that the Dutch Employee Insurance Agency, a government administrative body that already carries out these tasks for the education and work domains, will take over the responsibility for these interpretation services as of 1 July 2019.

100. People with auditory disabilities can use an interpreter for private purposes for 30 hours a year. People with both auditory and visual disabilities can do so for 168 hours per year. If they need more than the standard number of interpretation hours, they can submit a substantiated appeal for more hours.

101. An indication on an annual basis:

- Living domain: 4,000 users for a total amount of €9 million;
- Work domain: 900 users for a total amount of €4 million;
- Education domain: 300 users for an amount of €10 million.

102. Provisions for making education accessible for pupils with disabilities are laid down in legislation. In the Netherlands, pupils and students who are deaf and hard of hearing are, in principle, eligible for interpretation services up to the age of 30 (and older if they are entitled to a student grant).

### **Media**

103. A statutory regulation applies to subtitling for people who are deaf and hard of hearing. The public service broadcasting organisation (NPO) is obliged to subtitle 95% of its programmes. The Dutch commercial channels are obliged to subtitle at least half of their programmes.

104. The NPO carries out various activities to make programmes accessible for people with visual or auditory disabilities. The NPO has made a large number of its programmes accessible to blind people and partially sighted via free spoken subtitles. The providers have a legal obligation to transmit this signal both via television and online. The NPO has been the leader in the field of spoken subtitles for years. Thanks to this system, developed by the NPO, specifically people who are blind and partially sighted have access to all kinds of foreign productions for which the NPO provides a Dutch translation in the form of written subtitles. The NPO offers 100% of these translated subtitles on NPO 1, 2 and 3 as spoken subtitles. The NPO also provides the signals for spoken subtitles to external parties that install a facility (handy unit) in the homes of people who are blind and partially sighted so that spoken subtitles can also be made audible. For a number of television programmes, audio descriptions are also provided for people who are blind and partially sighted. The policy of the Ministry of Education, Culture and Science is aimed at gradually increasing,

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2009/45/EC stipulates that Member States must take suitable measures to enable passengers to access ships safely.



on a voluntary basis, the provision of audio description, a method which has also worked well in the case of spoken subtitles.

105. Besides subtitling programmes for people who are deaf and hard of hearing, sign language is also available during NOS morning news broadcasts.

#### **Accessibility of government information and public telephony**

106. Public services must be accessible to every citizen. In February 2018, the Council of Ministers took a decision which serves to convert the European web accessibility Directive 2016/2102, which provides (minimum) regulations to guarantee accessibility of websites and mobile applications (apps) of government bodies, into binding national regulations. This is part of a broader package of measures which the government wants to use to realise digital inclusion. The web accessibility Directive refers to European Standard (EN) 301 549 which is based on the Web Content Accessibility Guidelines 2.0. This standard offers guarantees that content can be converted using auxiliary equipment and software so that it can be used by everyone, including persons with disabilities.

107. Ultimately at the end of 2021, a report will be issued at least once every three years about the degree to which government websites and apps meet the accessibility requirements laid down in this Directive.

108. The EU Directive will be used as a basis to lay down the accessibility requirements in government assignments for procuring digital resources and products, such as websites and apps.

109. The Dutch Telecommunications Act provides for equal access to public telephony services by end users with physical disabilities. On this basis, telecom provider KPN was designated in 2013 to implement the text and image mediation service for people who are deaf and hard of hearing. This service enables people who are deaf and hard of hearing and people with speech impairments to make telephone calls with (hearing) people or organisations via an interpreter.

110. The text and image mediation service was evaluated in 2017. The evaluation underlined the contribution made by the current mediation service to more equal access to public telephony services for people who are deaf and hard of hearing. Once again an organisation will be designated to continue providing the service.

#### **Digital accessibility of the care sector**

111. Given the increasing digitisation of society, more and more people are dependent on care providers' websites, portals and apps. However, the 'Monitor 2017: digital accessibility in the care sector' revealed that digital accessibility for people with functional disabilities is still not satisfactorily arranged in the care sector. Together with the care sector, the Ministry of Health, Welfare and Sport is going to work on recommendations to improve digital accessibility of the care sector. Based on the implementation programme (see Articles 3 and 4) cooperation is being sought with parties in the care sector that are prepared to play a pioneering role.

### **Article 10 Right to life**

112. With regard to Article 10, the Kingdom of the Netherlands submitted a declaration when the Convention was signed, to clarify that protecting this right is a matter of national legislation. In this context, it is stressed that unborn life is worthy of protection and, at the same time, in light of this legislation, other interests can be weighed up, as was the case in the Termination of Pregnancy Act or the Embryo Act. This details, among other things, how the various interests – the need to be protected, human dignity and good care – are weighed up, for example in situations of unbearable suffering without prospect of improvement.

113. The declaration made by the Netherlands when signing the Convention was repeated when it was ratified and supplemented with the observation that, by doing so, action is taken in line with the existing case law of the European Court of Human Rights in relation to the interpretation of Article 2(1) ECHR. The termination of a pregnancy within the legal limitations is therefore not in contradiction with the Convention.

114. Annex 4 contains additional information about Dutch laws and regulations which are important in the context of Article 10. In addition to the Termination of Pregnancy Act this concerns regulations for late termination of pregnancy and the termination of the life of newborns and the Dutch Termination of Life on Request and Assisted Suicide (Review Procedures) Act (2002). These laws and regulations do not contain any specific conditions for people with disabilities.

## **Article 11**

### **Situations of risk and humanitarian emergencies**

#### **Self-reliance during disasters and crises**

115. In the Netherlands, campaigns are organised periodically to promote the self-reliance of the Dutch population during disasters and crises. These campaigns make no distinction based on whether or not people have a reduced capacity to be self-reliant.

116. In the context of disaster, risk and crisis management the point of departure in the Netherlands is inclusivity. In other words, the specific needs of people with disabilities are taken into account. The National Coordinator for Security and Counterterrorism of the Ministry of Justice and Security is responsible for communications before and during a crisis between the government, citizens and the business community based on the society's need for information. There is a permanent site in place which the government can use to give information during a disaster or crisis.

#### **Humanitarian emergencies**

117. With regard to humanitarian policy, the Netherlands is fully committed to the 'Charter on Inclusion of persons with disabilities in humanitarian action' (World Humanitarian Summit, Istanbul, 2016). As an important donor, the Netherlands calls its partners to account in terms of committing to the Charter. From the moment that minimum standards for the inclusion of people with disabilities will have been established, the Netherlands will require that its partners implement these standards.

#### **Accessibility of emergency number 112**

118. The Ministries of Economic Affairs and Climate Policy and Justice and Security are working together to ensure that people who are deaf and hard of hearing can communicate with the 112 emergency number. The aim is to achieve parity in terms of accessibility of the emergency number for this target group.

119. People who are deaf and hard of hearing can contact the 112 emergency number for emergency assistance using a computer or smartphone either directly or indirectly via the mediation service. The connection makes it possible to establish direct contact with the emergency number on the basis of speech and/or text. The 112 operator will mediate during this call.

120. If a person who is deaf or hard of hearing is reliant on a sign language interpreter, there will be a need for visual mediation. This is done by using the mediation service (now known as KPN Teletalk) which will contact a government service or the 112 emergency number. The sign language interpreter will then interpret the call between the person who is deaf or hard of hearing and the 112 operator.

121. The police are currently working on implementing innovations to the 112 infrastructure which are expected to be completed by mid-2018. These will further optimise the service for people who are deaf and hard of hearing, for example with the eSMS service.

In the unfortunate event that a person who is deaf or hard of hearing has no access to the Internet and/or Wi-Fi, it will be possible to send an eSMS to 112.

### **NL-Alert**

122. NL-Alert is the mobile telephone alert system with which the government can alert and inform citizens in the event of an emergency. The government believes it is important that warnings are also available to people who are deaf and hard of hearing in the event of a disaster or emergency situation. NL-Alert uses Cell-Broadcast technology to reach mobile telephones with both a loud sound signal, a vibration signal and a text. Various possibilities are still being investigated for a different form of warning for groups that cannot receive these messages, for example via alerts on screens in public spaces, calling the person in question on a landline and films showing the alert in sign language.

## **Article 12**

### **Equal recognition before the law**

123. With regard to Article 12, the Kingdom of the Netherlands issued a declaration when the Convention was ratified which acknowledges that people with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. On the other hand, it was indicated that the Kingdom interprets Article 12 in such a way that the Convention allows supportive and replacement decision-making rules in suitable circumstances and in accordance with the law, on condition that such measures are limited to situations in which that is essential, as a last resort and subject to safeguards. The Dutch government's position is that, in some cases, replacement decision-making actually provides protection for people from a violation of their human rights.

124. Just like any other adult, adults with disabilities are authorised to act and have legal capacity in all areas of their lives. For example, they can own or inherit goods, manage their own financial affairs and have access to bank and mortgage loans. Things are only different if the court has imposed a protective measure.

125. The Dutch law contains three protective measures: protective administration, mentorship and tutelage. Protective administration can be imposed in order to protect the financial interests of the person in question. In that case the person in question will not be able to have independent access to the goods which are subject to the protective measure. Mentorship can be imposed in order to protect the interests of the person in question in the field of care, nursing, therapy and supervision. That person will then no longer be able to take his own decisions. Tutelage can be imposed if the person in question is unable to manage his own financial and other interests. In principle, the person placed under tutelage loses his legal capacity. Where possible the administrator, mentor and guardian are required to take decisions on the basis of consultation with the affected person and, where possible, they must increase the self-reliance of that person.

126. A measure must not have a more drastic effect than is necessary in the given situation and must be proportional to the limitation(s) of the person in question. The court will officially check whether a less stringent measure may suffice rather than the measure sought. The court will also, in principle, hear the person in question and take account of their preference when it comes to appointing the representative, unless there are well-founded reasons for not doing so. The five-year evaluation of each measure ensures that the measure is not effective for longer than is necessary.

## **Article 13**

### **Access to justice**

#### **Access to legal aid**

127. The Dutch system of subsidised legal aid is equally accessible to everyone whose income and assets are below a certain limit, including people with disabilities. The 'Legal Desk' was set up as a first-line provision for people seeking justice who are entitled, due to

their income, to subsidised legal aid; it can be contacted by telephone and email. The website contains detailed information about legal aid. People seeking justice can also attend walk-in consultation sessions at one of the 30 branches or contact a legal aid counsellor who, if necessary, will claim subsidised legal aid on their behalf.

128. Criminal law includes an extra provision for vulnerable suspects who have been arrested by the police, such as adult suspects with mental disabilities or psychological disorders and underage suspects. In the case of minors, a lawyer is always called in, irrespective of the seriousness of the allegation, before they are heard by the police (consultation assistance). Vulnerable adults can only refuse this assistance if and after a lawyer has pointed out the consequences.

### **Access to court buildings**

129. The aim is to make every government building accessible for everyone. In the Netherlands, all court buildings comply with the Accessibility Handbook that is based on regulations and legal requirements. The same applies to the construction of new court buildings and the refurbishment of existing buildings. This concerns parking facilities, entrances and doors, reception desks and counters, toilets and furniture.

### **Accessibility of the court system**

130. A number of years ago a start was made to digitising the Dutch court system. This means that, in a few years' time, citizens will be able to gain digital access to the court system in all fields via the website [www.rechtspraak.nl](http://www.rechtspraak.nl). The aim is to comply as quickly as possible with the accessibility requirements of [DigiToegankelijk.nl](http://DigiToegankelijk.nl) at level AA. This standard will make the website more user-friendly and more easily accessible for various target groups. This site is regularly inspected by an independent agency to assess its accessibility, with the aim of resolving any bottlenecks.

131. The general aim of the court system is communication which is as clear and simple as possible. The point of departure for information material is language level B1 of the Common European Framework of Reference. Sign language interpreters are available in court.

### **Representation/supervision of people with mental disabilities**

132. People with mental disabilities are represented (at law), except in criminal law proceedings (see Article 14), by a guardian or administrator in most instances. If this is not the case, they can be accompanied by family or friends. If the latter is not the case either, they can be referred to, for example, a lawyer or a legal advice centre.

133. On the basis of Article 8(1) of the Dutch Psychiatric Hospitals (Compulsory Admission) Act anyone who is in the Netherlands but cannot go to court, can be heard by the judge (accompanied by the clerk of the court) at their home address. If the person in question is staying in a psychiatric or other hospital, he can be heard there.

### **Training personnel**

134. Staff working in the field of the administration of justice are given suitable training. For example, the Police Academy provides a wide range of training courses for police officers in terms of interviews, with attention also being paid to interviewing vulnerable people.

135. The Dutch Public Prosecution Service stipulates in the 'Instructions on the audio and audiovisual registration of interviews of people reporting offences, witnesses and suspects' that, in the case of certain serious crimes, audiovisual registration of the interview is obligatory when interrogating and hearing vulnerable people, including those with mental disabilities.

136. The interview is carried out by investigating officers who are specially trained at the Police Academy. In view of the complexity of such an interview, external experts also have an important advisory role to play.

137. Courses are available to people working in the court system on clear and simple use of language (also during hearings). The ‘Promis’ project is intended to encourage judges and justices to write their judgements in understandable language. Various courts provide programmes to promote the use of understandable language by employees.

## **Article 14**

### **Liberty and security of person**

138. Article 15 of the Dutch Constitution stipulates that other than in the cases laid down by or pursuant to the law, no one may be deprived of his liberty. The simple fact that someone has a disability can never justify a measure which deprives them of their liberty.

#### **Criminal prosecution**

139. If a person with a psychological disorder or mental disability is suspected of a criminal offence, that disorder or disability will be taken into account both during the criminal investigation and during the trial and any implementation of a punishment or penal sanction. A tailor-made approach will always be applied (see also Article 13). When deciding whether to prosecute a suspect the Public Prosecution Service will carefully weigh up all the relevant elements, including the personality of the suspect, the existence of a disorder or disability, his criminal record, the seriousness of the criminal offence, the estimated risk of reoffending and suitability for detention. At the same time, the Public Prosecution Service will assess whether a procedure should be started leading to compulsory hospitalisation without the application of criminal law. As necessary a request for a judicial authorisation on the grounds of the Psychiatric Hospitals (Compulsory Admission) Act will be submitted.

140. This statutory framework is going to change. In January 2018, Parliament adopted two acts to replace the Psychiatric Hospitals (Compulsory Admission) Act. The acts in question are the Act on Compulsory Mental Healthcare and the Act on Care and Involuntary Treatment of Psychogeriatric and Mentally Disabled Clients. These acts are going to enter into force on 1 January 2020. The (existing) Forensic Care Act is to be amended. In the event of a decision to drop the charges, the Public Prosecution Service can then submit a request for granting a care authorisation under the Act on Compulsory Mental Healthcare or an admissions authorisation under the Act on Care and Involuntary Treatment of Psychogeriatric and Mentally Disabled Clients.

141. If criminal prosecution and a trial are pursued, the Dutch Code of Criminal Procedure contains a special rule for any suspect who, due to their mental disability, is unable to properly represent their interests. To that end ‘compensating’ or extra protective measures are put in place. If, as a consequence of his disability, the suspect is unable to understand the implications of the prosecution brought against him, the Code of Criminal Procedure prescribes that the court must suspend prosecution as of that point. The Code of Criminal Procedure is currently being updated and this rule will also be amended. In order to help a suspect who is insufficiently able to understand the proceedings brought against him and effectively participate therein due to a psychological disorder, mental or physical disability, or an illness, the necessary measures must be taken to enable him to do so. The Public Prosecutor and the court will stipulate what is necessary on a case-by-case basis. The law allows for a tailor-made approach. In any case, a lawyer will be assigned.

142. Examples of other measures are the presence of a counsellor and holding the trial behind closed doors. If measures do not lead or cannot lead to the suspect being sufficiently able to understand and effectively take part in the proceedings brought against him, the Public Prosecutor is not allowed to prosecute at that point in time. The court must then bar the Public Prosecutor from prosecution. The court can then, where appropriate, simultaneously issue an authorisation under the Act on Care and Involuntary Treatment of Psychogeriatric and Mentally Disabled Clients or the Act on Compulsory Mental Healthcare.

143. Anyone committing a criminal offence that cannot be imputed to him due to his psychiatric disorder or mental disability will not be liable to punishment. This general

principle means that it is impossible to convict this person to a prison or other sentence. However, the criminal court can have the person in question admitted to a psychiatric hospital. Where a criminal offence is serious (with the crime committed carrying a penalty of at least four years' imprisonment) and if there is a risk of re-offending, a hospital order can also be imposed on the person in question, possibly combined with treatment. This type of deprivation of liberty then arises from the fact that he has committed a serious criminal offence and that there is deemed to be a risk of reoffending.

144. If a term of imprisonment is imposed, the presence of a disorder or disability will be taken into account when executing that sentence. This way, people with mental disabilities who are eligible can, for example, be placed in a special facility, such as an institution for people with serious behavioural disorders and mild mental disabilities.

### **Involuntary care**

145. When signing the Convention, the Kingdom of the Netherlands made a declaration to Article 14 whereby it was acknowledged that all people with disabilities are entitled to freedom and safety and to the right of respect for physical and mental integrity on an equal footing with other people. It was also indicated that, according to the Kingdom, the Convention provides for obligatory care or treatment of people, including measures for the treatment of people with mental illnesses, if circumstances make such treatment necessary as a last resort and the treatment is subject to legal safeguards.

146. The Dutch government acknowledges that such interventions require the highest degree of care. These kinds of measures are therefore accompanied by the necessary legal safeguards. The aforementioned guarantees are laid down in the Dutch Constitution in Articles 10 (respect for privacy) and 11 (inviolability of one's person). These provisions apply to all people in the Netherlands.

147. The Netherlands has specific legislation relating to the provision of involuntary care for people with psychological, psychogeriatric, or mental disabilities. The current legal basis for this is the Psychiatric Hospitals (Compulsory Admission) Act which sets out the procedure for compulsory admission. See also above for more information on this Act, the Act on Compulsory Mental Healthcare and the Act on Care and Involuntary Treatment of Psychogeriatric and Mentally Disabled Clients. The latter acts mean a substantial improvement in legal protection because they lay down the rules on how a decision on the use of involuntary care can be taken. In addition, it clearly records that involuntary care may only be provided if it is proportional and fulfils the principle of subsidiarity. More importantly, the new legislation stipulates that involuntary care may only be used to alleviate a serious disadvantage for the person in question or another person and that it has to be a last resort. A mental disorder as such is therefore no ground for involuntary care. In the event of deprivation of liberty, these people will be entitled to care which is in line with their needs. Where appropriate, anyone is entitled to a counsellor who also has the task of assisting people with disabilities with all aspects of the involuntary care.

## **Article 15**

### **Freedom from torture or cruel, inhuman or degrading treatment or punishment**

148. The Netherlands acknowledges the international guarantees that no one may be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Dutch legislation aims at ensuring that all people who are deprived of their freedom are treated humanely.

### **Medical scientific research**

149. The conditions for taking part in medical scientific research are laid down in the Medical Research involving Human Subjects Act. In this context special attention is paid to people who are unable to consent to such research themselves. The relevant provisions were recently amended in line with the new European clinical trials regulation (536/2014). Freely given consent is essential and, in the case of vulnerable groups, can only be given by

representatives of the test subjects in exceptional circumstances in connection with non-therapeutic research. The test subject can terminate participation in the research at any time.

150. In conjunction with the second sentence of Article 15(1), the Kingdom of the Netherlands has issued a declaration which states that the term ‘consent’ is to be interpreted in accordance with other international instruments, such as the European Clinical Trials Directive (2001/20/EC) and national legislation which is in accordance with these international instruments. The Netherlands views the purpose of the treaty provision in light of sufficient protection of the test subject set off against the interests of developing medical science for vulnerable patient groups and the development of new therapies or diagnostics.

151. Core values in performing research with vulnerable groups are the principles of respect for autonomy, beneficence, non-maleficence and distributive justice. A crucial aspect is free and informed consent in the event of medical scientific research. Consequently, research with people who are unable to appreciate their interests reasonably is, in principle, prohibited by law. The exclusion of people who are unable to give consent themselves is, however, hampering medical progress for precisely these groups. The prohibition therefore includes exceptions for unique situations. From the point of view of protecting the physical and mental integrity of the person, the legislation provides for extra conditions which have to be fulfilled in order to be allowed to conduct medical scientific research with people who are unable to appreciate their interests reasonably, such as the consent that a legal representative (or person designated by law) must give for the research. Furthermore, the research may only be carried out if a positive opinion has been obtained from an official medical research ethics committee of the Central Committee on Research Involving Human Subjects.

## **Article 16**

### **Freedom from exploitation, violence and abuse**

#### **The Dutch Criminal Code**

152. Exploitation, violence and abuse are offences which are punishable according to the Criminal Code. During sentencing, the fact that the victim has a disability is taken into account. Discrimination against people on the grounds of their disabilities is also liable to punishment.

#### **Policy on victims**

153. Anyone can become a victim of crime. People with disabilities can use any and all legal, practical and social support services available to victims. Some victim groups are extra vulnerable and have special needs for protection. These needs are assessed and taken into account. In the case of a mild mental disability, for example, communication takes place using understandable language or, if someone is unable to visit Victim Support Netherlands themselves due to a physical disability, a home visit can be arranged.

154. Further to the implementation of the EU Directive on minimum standards<sup>9</sup> and the requirement included therein that victims must be protected, it is essential to assess their vulnerability consistently and structurally and to take specific protective measures, where appropriate. Police officers must know how to reduce or prevent the risk of repeated victimisation, intimidation and retaliation. There are protective measures aimed at the person of the victim and measures to protect their privacy and personal data.

155. The police officer must recognise specific protection needs in time and determine if, and if so, to which extent the victim is entitled to special protective measures. In order to make an accurate estimate of the vulnerability of victims and to protect them, the Individual Assessment instrument has been developed, which the police has been using since 1 June 2018.

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<sup>9</sup> Act of 8 March 2017, implementing Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, the support and the protection of victims of crime (replacing Council Framework Decision 2001/220/JHA (OJ 2012, L 315)).

### **Combating human trafficking**

156. The Netherlands has adopted an integral approach to tackle human trafficking: all parties that can make a contribution towards combating human trafficking are involved in a Human Trafficking Task Force. These parties ensure that, on the one hand, measures are taken to prevent human trafficking and that they are keen on picking up the relevant signals and, on the other hand, that human traffickers are hampered in their actions by imposing sanctions.

157. In addition, the government offers support to victims. Under the Dutch Social Support Act 2015 and the Dutch Youth Act, the municipal authority is responsible for supporting and caring for victims of human trafficking. The aim is to offer victims help which meets their needs.

158. In 2013, an interdepartmental project was launched with the aim of developing a national referrals mechanism for victims of human trafficking. In the context of this project, initiatives including the following were taken:

- The Human Trafficking Road Map ([www.wegwijzermensenhandel.nl](http://www.wegwijzermensenhandel.nl)): a website which offers professionals, victims and citizens an accessible overview of the support available to victims of human trafficking;
- A number of practical manuals were drawn up which will help youth care professionals to detect and support underage victims. These are tailor-made for victims with mental health issues because children in this group run a greater risk of becoming victims of human trafficking;
- The Centre of Expertise on Trafficking in Human Beings and People Smuggling has researched the nature and scope of the problem relating to underage victims of human trafficking with mild mental disabilities (MMD) and clarified the problem of victims of human trafficking with MMD in a document published in April 2018.

159. The Netherlands has an independent National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children who reports on the nature and scope of human trafficking and sexual violence against children in the Netherlands. The National Rapporteur presents the human trafficking policy and makes recommendations for improving the approach.

### **Preventing domestic violence, child abuse and sexual abuse**

160. The Netherlands has various laws in place that apply to tackling domestic violence and abuse in the case of people with disabilities.

161. The Social Support Act 2015 stipulates that municipalities are responsible for supporting self-reliance and participation of people with disabilities (see also Articles 3 and 4). Under this Act, municipalities are also responsible for organising a hotline for domestic violence and child abuse. Under the Youth Act, municipalities are responsible for promoting the safety of young people, including young people with disabilities, in the situations in which they grow up.

162. The Netherlands also has legislation in place which specifically aims at tackling domestic violence, namely the Mandatory Protocol Domestic Violence and Child Abuse Act, which compels professionals to follow the rules of mandatory reporting, and the Temporary Domestic Exclusion Order Act under which the perpetrator of domestic violence is temporarily not allowed into his own home. It goes without saying that criminal law also applies to domestic violence and child abuse where criminal offences are being committed.

163. In the spring of 2018, a new national domestic violence and child abuse programme was launched entitled 'Violence does not belong anywhere'. This also focuses on specific problems and specific groups, such as people with mild mental disabilities.

164. In the Dutch disabled care sector, work has been going on for some time to prevent sexual abuse. Information material is tailored to specific groups (people with autism, Down's syndrome, multiple disabilities). In 2013, for example, the Road map for child



abuse, domestic violence and improper behaviour was developed specially for people with disabilities.

165. In 2017 existing instruments and products for tackling female victims of lover boys/human trafficking were amended in such a way that they are suitable for boys and girls with mild mental disabilities, as well as for young people with psychological disorders. These instruments focus on identification, risk assessment, cooperation with the police and judicial authorities, reporting to the Human Trafficking Coordination Centre and support and help for victims.

### **Preventing exploitation and abuse in employment relationships**

166. Tackling labour exploitation is a high priority for the Inspectorate of the Ministry of Social Affairs and Employment. With regard to vulnerable groups the Inspectorate carries out studies and analyses to assess whether there are any grounds for interventions. It carries out these interventions in order to prevent these groups from becoming victims of exploitation during their work. In 2017, in addition to asylum seekers and minors, people with mild mental disabilities were also included in the target groups for which there is special attention.

### **Psychosocial occupational health hazards**

167. Everyone who works is entitled to decent work in a socially safe environment.

168. Aggression and violence are elements of psychosocial occupational health hazards in addition to bullying, sexual intimidation and pressure of work. These hazards are a persistent problem that is accompanied by an unsafe working environment. In the Netherlands, tackling undesirable behaviour is primarily the responsibility of employers and employees.

169. In the Working Conditions Act, aggression and intimidation are included under 'psychosocial occupational health hazards'. On the grounds of this Act, employers are obliged to pursue a policy aimed at preventing or limiting these hazards. The Working Conditions Decree further details this obligation and compels employers to identify the risks in a risk inventory and evaluation. In addition, the action plan must include present and future measures to prevent aggression and intimidation. Via various programmes and with wide-ranging activities, the Dutch government has tried to encourage and facilitate employers and employees to take preventive measures against undesirable behaviour, to ensure that employees can contact someone if they feel unsafe and to monitor undesirable behaviour via the Inspectorate. Besides encouraging and facilitating managers, works councils, prevention officers and health and safety experts and developing actual instruments and studies, awareness was another element in the action plan. The programmes do not make any distinction between employees with and without disabilities. They enjoy the same level of protection.

## **Article 17**

### **Protecting the integrity of the person**

170. In the Netherlands, the right to respect someone's privacy is laid down in a general sense in Article 10(1) of the Constitution: 'Everyone shall have the right to respect for his privacy, without prejudice to restrictions laid down by or pursuant to Act of Parliament' Article 11 of the Constitution relates specifically to the right of inviolability of one's person: 'Everyone shall have the right to inviolability of his person, without prejudice to restrictions laid down by or pursuant to Act of Parliament.'

### **(Medical) treatment and informed consent**

171. The Medical Treatment Contracts Act provides for important patient rights, such as the principle of 'informed consent'. This means that a patient has to be properly informed by the care provider in order to give or withhold consent to any medical treatment. This Act also contains a representation scheme for patients who cannot decide themselves. Children

aged under twelve are represented by their parents or guardian. The child's opinion is taken into consideration in the decision. Minors aged between twelve and sixteen are subject to 'dual consent', meaning that not only the minor's consent is required but also that of the parents or guardian. There is an exception in the sense that if the procedure is manifestly necessary in order to prevent a serious disadvantage for the patient, or if the patient persists in wanting the procedure to be performed after due consideration, the procedure can be carried out without the parents' consent. Patients aged 16 and over can give their consent independently, unless they are unable to appreciate their interests reasonably.

172. Insofar as a patient aged sixteen or over is considered unable to appreciate his interests reasonably, due to his mental condition or due to another reason, he can be represented in this matter (if a patient is aged between twelve and sixteen, the parents or guardian can decide in such an instance). The obligations arising from the Medical Treatment Contracts Act then apply vis-à-vis the representative. The fact that a patient has a representative does not, however, mean that he has no understanding whatsoever of his situation. The care provider must always weigh up whether the patient in an actual situation is able to appreciate his interests. Moreover, if a representative, by his actions, turns out not to exclusively serve the patient's best interests, the care provider need not automatically follow every expression of will of the representative. Lastly, if the legally incapable patient objects, the procedure cannot be carried out unless it is manifestly necessary in order to prevent serious harm, or does not involve a drastic procedure. This gives weight to the opinion of the legally incapable person. The freedom to undergo or to refuse medical treatment is, after all, substantial in the light of self-determination and autonomy.

173. For information on compulsory treatment and medical scientific research, see Articles 14 and 15.

### **The Organ Donation Act**

174. The Organ Donation Act legitimises, subject to strict conditions, a violation of physical integrity by permitting organ donation after death on the basis of consent in lieu given by the next of kin of the deceased or of a person specifically designated by the deceased prior to their death. Where children aged under twelve are involved, the parents or guardian will decide on organ donation irrespective of whether the child has a mental disability. Anyone aged twelve or over who is capable of reasonably appraising his interests relating to organ donation may himself grant permission or object. Where people with mental disabilities aged twelve and over are concerned, the degree of the disability will determine whether they themselves or their next of kin can give permission or object on their behalf. If a child aged 12 or over has died, who gave permission before attaining the age of 16, no organs will be removed if the parent or guardian objects.

175. Parliament has adopted a new Donor Act to replace the current donor system for organ donation after death. The new Donor Act introduces an active donor registration system automatically registering everyone in the Netherlands aged 18 and over as a donor, unless they have objected to being registered as such. This Act is expected to enter into force in 2020. A new element is that the legal representative of an adult with a mental disability, who is unable to appreciate his interests reasonably, can record a choice for organ donation in the organ donor register for that person. If it transpires after death that the person in question has been registered in the organ donor register as a person who has given permission for or has not objected to organ donation, that registration must be confirmed or cancelled by the legal representative. If the latter is absent or cannot be contacted, the decision can be taken by the next of kin. If the next of kin is also absent or cannot be contacted, no organ donation will take place.

176. Where living organ donation – including under the new Donor Act – is concerned, consent in lieu may only be given for adults with mental disabilities who are not capable of reasonably appraising their interests by the persons designated at law if it pertains to a regenerative organ and the removal will not have any permanent consequences for the donor's health and only for the purpose of implantation in a blood relative up to the second degree whose life is in danger, which danger cannot be differently averted in the same effective manner. In addition, the donor must have a substantial interest in averting said mortal danger.

177. The Health and Youth Care Inspectorate supervises compliance with this Act.

## **Article 18**

### **Liberty of movement and nationality**

178. Pursuant to the Dutch Constitution (Article 2(4)) every Dutch citizen is entitled to enter and leave the Kingdom of the Netherlands, except in the cases laid down by Act of Parliament.

179. The European Convention on Nationality, to which the Kingdom is a party, stipulates that everyone has the right to a nationality and that States which are party to this Convention will be guided by the principle of non-discrimination of their subjects (Articles 4 and 5). The so-called Netherlands Nationality Act regulates who is a Dutch citizen. Dutch citizenship is legally obtained by, among other things, parentage, by confirmation of adoption, or on request through naturalisation. Citizenship is open to anyone who fulfils the conditions regulated by or pursuant to the law.

180. Naturalisation is only possible after taking a naturalisation or integration test. Dispensation from the obligation to complete an integration programme can be given for mental or physical reasons. In addition, an applicant who is unable to take any part of the test due to a disability can be released from that obligation.

181. Dutch citizenship is lost by, for example, the voluntary acquisition of another nationality, a waiver or through cancellation. For example Dutch citizenship is cancelled if, when it was granted, the person in question did not make a sufficient effort to relinquish the nationality of his country of origin.

182. No distinction is made either in the event of acquisition or in the event of loss of Dutch citizenship between people with or without disabilities, with the exception of the dispensation in favour of people with disabilities in terms of fulfilling the naturalisation test.

183. Identity and nationality can among other things be proven by producing a Dutch travel document. Every Dutch citizen has a right to a Dutch travel document. People have to go in person to the so-called passport-issuing body (for example a Dutch municipality) in order to submit an application for a document and take receipt of said document in person when it is ready. Passport legislation takes explicit account of people who, for significant reasons, cannot be expected to appear in person. If this applies, for example, to someone with a disability, the issuing body is obliged to send an official to this person in order to start processing the application. In that case the applicant need not go in person to the issuing body to take receipt of the travel document applied for.

184. In the Netherlands, every newborn child must be registered in the register of births, marriages and deaths within three days of its birth. No distinction is then made between children with and without disabilities. Registering a birth is free of charge.

## **Article 19**

### **Living independently and being included in society**

185. Article 22(2) of the Dutch Constitution stipulates that it is the task of the authorities to provide sufficient living accommodation.

186. In the context of the right, protected under international treaties, of each person to be able to freely choose their place of residence, the Housing Allocation Act and the Act on Extraordinary Measures for Urban Problems are important.

187. The focus of the Housing Allocation Act is on housing distribution in order to facilitate a proportional and balanced distribution of scarce accommodation among a group which is being forced out of the housing market. The Housing Allocation Act also stipulates that a municipality can set criteria for the provision of housing permits. The criteria may relate to the granting of priority to one or more designated categories of housing in connection with the nature, size or price of that accommodation to designated categories of home seekers. The nature of the accommodation relates to special

characteristics of the home. This means, for example, the absence of doorsteps and any other provisions which make the home more suitable for home seekers with physical disabilities.

188. In the housing regulations the municipal council can designate groups of urgent home seekers. This includes, in any event, home seekers in temporary accommodation for people who, in connection with relational problems, have had to leave their homes and givers and receivers of voluntary care. If so desired, the municipal council can extend the group of urgent home seekers to include people with disabilities.

189. One of the things that the Act on Extraordinary Measures for Urban Problems regulates is that a municipality can ask the minister to designate certain parts of the city where particular socio-economic problems occur as such, so that the municipality can refuse to issue certain home seekers with a housing permit. A housing permit will be refused in designated areas to people who were resident in the region in which the municipality is located for fewer than six years prior to the application for a housing permit and who do not have paid income, old-age pension or a student grant. This measure is aimed at people who do not have any income from paid work. Although a large proportion of the people with disabilities have (some) income from paid work, others are completely dependent on benefits. The municipality can therefore make an exception if the refusal of a housing permit were to lead to serious unfairness. In such a situation people with disabilities can invoke the hardship clause so that they become eligible for a housing permit in the designated area.

190. The national government stimulates the availability of sufficient homes and forms of accommodation for people with disabilities by making agreements with national and regional parties. The availability of sufficient homes and forms of accommodation for people with disabilities is one of the themes in the Accessibility for the building sector action plan (see Article 9). With this in mind, various activities have been included in the action plan. These themes are implemented primarily at local and regional level through cooperation between municipalities, housing corporations, private parties and care providers. People with disabilities are also involved.

191. The Housing Act stipulates that housing corporations conclude performance-related agreements with municipalities and tenants' organisations annually. Those agreements will specify, for example, the homes that the corporations will build for particular target groups. In 2015, the national government published four public housing priorities which were then communicated to the housing corporations for the purpose of concluding performance-related agreements with the municipalities and tenants. The priorities in question are affordability and availability, energy saving, urgent target groups and home care. The elderly and other people who require care make up an important target group.

192. New residential care arrangements are being worked on in the context of the 'National Housing Agenda' and the 'Living Longer at Home' programme, a programme initiated by the Ministry of Health, Welfare and Sport that focuses on enabling, together with the parties involved, elderly people to stay living at home longer. This way, people are given more possibilities if they are no longer able or willing to live independently, but do not want to move into an institution yet.

193. Under the Social Support Act 2015, it is up to the municipality to carefully assess any report of a resident who needs support. Any assessment of the support needed focuses on the characteristics of the person and their situation. When a resident indicates that a modification to their home or supervision will contribute to their self-reliance and participation, the municipality must assess that carefully in the situation in question. Some people need personal care or district nursing in order to participate. District nurses will assess whether someone needs said care, based on the Health Insurance Act.

194. Within the statutory framework of the Social Support Act 2015, various forms of sheltered housing are available in the Netherlands for people with mental and psychosocial problems who are unable to live independently in society. The policy-related and financial responsibility for sheltered accommodation is vested in the 43 so-called 'central municipalities' (which are usually larger municipalities that perform a task on behalf of surrounding municipalities). People with mental and psychosocial problems can contact the

municipality of their choice with a request for sheltered accommodation after which the municipality can initiate an assessment for the support needed. The municipality may decide that a place in a form of sheltered accommodation is most suitable, but can also, for example, arrange for care to be provided at the person's home or daytime activities in a day centre.

195. Almost all organisations for sheltered accommodation have residential units which are accessible for people with physical disabilities.

196. Besides forms of sheltered housing, Dutch municipalities also offer social care in the form of shelter and supervision for people who have left their home situation, whether or not in connection with safety risks as a consequence of domestic violence, and who are unable live independently in society. Night shelters intended for homeless people aged 18 and over are also available in the Netherlands. Most people who receive social care are experiencing problems in several areas of their life. Usually the problems are complex and relate both to health and their socio-economic situation. Often they no longer have accommodation of their own, and they have debts and/or mental problems. These people too can contact a municipality of their choice with a request to stay in a shelter.

197. Crisis-related care and night shelters for homeless people are not always accessible and/or suitable for people with physical disabilities (there is not always a lift or accessible showers and toilet). Often, night shelters consist of dormitories with bunk beds. The police, fire brigade and Public Health Services regularly carry out health and safety inspections. In April 2018, the Association of Dutch Municipalities drew the attention of central municipalities, for example via the website, that – in view of the entry into force of the Convention – institutions for social care are also obliged to observe rules for physical accessibility.

198. If someone contacts the municipality with a request for assistance, the point of departure is that the municipality and the person who needs support will jointly assess the situation and, on that basis, decide how the person's self-reliance and participation can be improved. Client support can also play an important role (see Articles 3 and 4). The aim of this is to support the person involved with information and advice with regard to the application process and the acquisition of a suitable provision. If someone starts using social care or moves into sheltered accommodation, a treatment plan will be drawn up in consultation with them in order to improve their self-reliance and participation. Various studies have shown that there is room for improvement where implementation is concerned. For example, it is not always easy for people to gain access to the shelter and, in some places, there are waiting lists.

199. In 2015, the Future of Sheltered Accommodation) committee advised the municipalities and other parties to work towards social inclusion of the group of people who make use of sheltered accommodation and social care. This means that they must be supervised and supported where possible in 'ordinary' homes and neighbourhoods and in their social environment, focusing on recovery and self-reliance. Only people who really need this should be allowed to stay in an institution. Municipalities have, or are working on, a plan in the region on how they can structure the support for sheltered accommodation and social care to clients in the coming years. In addition, a large number of nationally organised parties have jointly drawn up a multi-year agenda for sheltered accommodation and social care, for at least the coming four years, including eight themes for which (extra) deployment is necessary. One of the themes is 'living'. One of the ways this is being implemented is via the 'Home Again!' action programme by parties in the field. This programme inter alia focuses on helping people who use sheltered accommodation and social care and wish to do so to move on into a regular home. Not only is it important that affordable homes become available, but also that proper agreements are made about debts and supervision.

200. The 'One Against Loneliness' action programme (2018) is intended to motivate society – individuals, government bodies and social institutions – to reduce loneliness. Through various partnerships, learning from good practices and facilitating initiatives, the programme focuses on getting the issue of loneliness on the agenda and counteracting it.

The programme concentrates on all affected citizens and not only on people with disabilities.

## **Article 20**

### **Personal mobility**

201. In the Netherlands, personal mobility of people with disabilities is being pursued by promoting accessibility of public transport and by offering specific provisions for people with disabilities. With regard to public transport reference is made to Article 9.

202. Under the Social Support Act 2015, municipalities are obliged to implement provisions ‘to compensate the limitations in a client’s self-reliance or participation’. After a thorough assessment of that person’s individual circumstances, municipalities and the client jointly determine what the most suitable solution is. The best support may differ per person. For example it may take the form of individual means of transport, the use of group transport or a taxi allowance.

203. A large number of people with disabilities use so-called target group transport. This consists of social-recreational transport, student transport, transport from and to work and daytime activities and seated patient transport. It is arranged via various laws. In many regions, the municipalities have joined forces to improve cooperation between these various forms of target group transport on the one hand and between target group transport and public transport on the other. One example of this is the emergence of so-called ‘control centres’, which aim to create tailor-made solutions for travellers. Assessments are also being carried out in thinly populated areas to determine whether demand-driven transport, in combination with target group transport, can offer an alternative to ‘route-based’ transport, which is no longer cost-efficient.

204. To support this movement, an action programme is being launched in 2018 in the context of the implementation of the Convention. This involves an assessment as to where support is needed based on traveller demand, in consultation with the decentralised authorities and transport providers. One option is allowing regions to compare their experiments, resolve tender-related problems and tackle issues which surface on the way.

205. Besides regional transport, the Netherlands also has supraregional, socially-recreational transport, referred to as ‘Valys’. To this end, the government concludes a contract with a transport provider. Every year, Valys allocates people with reduced mobility a personal kilometre budget which, in principle, entitles them to unlimited supraregional trips (outside the municipal borders). A higher personal contribution only has to be paid over and above the maximum kilometre budget that applies to them. The number of kilometres has to fall within the budget and is therefore not unlimited. Completing part of the journey by public transport, as part of a combination trip, uses up fewer of the available kilometres. People who really cannot travel by public transport – not even accompanied – can apply for a so-called ‘high personal kilometre budget’.

206. If someone has mobility issues, including those in relation to public transport, support can be obtained via the MEE organisation, a cooperative of 20 regional MEE organisations which are working to achieve an inclusive society. MEE helps people to function independently in society. An example of support in the field of public transport is the ‘MEE on the way’ (MEE op weg) training.

207. Dutch Railways ensures that people with disabilities receive assistance at stations (Disabled Assistance) and transport providers that carry out target group transport provide training for their staff so that they know how to act when picking up or bringing back someone with a disability. For example, the supraregional target group transport initiative (Valys) arranges practice days for a combination trip in order to help a passenger feel more certain about being able to combine the Valys service with public transport. In the case of a combination trip, possibilities for contact are in place primarily so that assistance can be provided should an unforeseen event occur during the journey. Often the transport providers can also offer a ride to someone accompanying the disabled person.

208. People with disabilities are also taken into account in many ways in the traffic infrastructure in the Netherlands. For example, devices that produce a ticking sound are installed at zebra crossings, pavements are lowered at crossroads for wheelchair users and there are raised lines on the pavement and streets to guide people with visual disabilities. Creating these facilities is the responsibility of the road authorities (municipalities, provincial authorities and national government). Street name signs and traffic signs are developed on the basis of standards and guidelines. A key standard for traffic signs has been adapted for people who are colour blind. Signposting also has to fulfil specific standards.

209. The Netherlands Enterprise Agency implements schemes to support businesses with technical, innovative developments. This can take the form of a subsidy or funding, or possibilities for deducting costs for research and development. These schemes can be used by businesses involved in the development of innovative/technological devices and provisions for improving the mobility of people with disabilities.

## **Article 21**

### **Freedom of expression and opinion, and access to information**

210. The right to freedom of expression is laid down in the Dutch Constitution (Article 7). This article guarantees the freedom of expression ‘without prejudice to the responsibility of every person under the law’.

211. People with disabilities and the elderly experience barriers to participating in society which are related to the digital world. This is particularly the case because of the increased digitalisation of government services. The European Web Accessibility Directive (2016/2102) provides (minimum) regulations to guarantee the accessibility of websites and mobile applications (apps) of government bodies. The government regards the timely and complete implementation of the European Web Accessibility Directive as a high priority.

212. On 2 February 2018, the Council of Ministers decided to convert the European Web Accessibility Directive into binding national regulations. Websites and apps designed and constructed to an adequate quality can therefore be used by anyone, including visitors with disabilities (see also Article 9).

213. The decision taken is part of a broader package of measures which the government wants to use to promote digital inclusion. Investments have been made, on the one hand, in promoting the digital skills of users and, on the other hand, attention has focused on user convenience on the supply side. Public services must be accessible to every citizen.

214. In contrast to public bodies, private institutions in the Netherlands that provide services to the public, are not obliged to offer these in an accessible form via the Internet, such as standards. In principle standardisation is determined by the market and takes place on a voluntary basis. This does not detract from the fact that the knowledge and experience gained with making websites accessible will be broadly distributed so that companies can benefit as well.

215. In the Netherlands, people with auditory disabilities can request an interpreter for various situations (see Article 9). The Ministry of Education, Culture and Science subsidises the Dutch Sign Language Centre. One of its tasks is to manage and develop Dutch sign language.

216. A text telephone facility is also available which deaf people can use to communicate with someone who can hear. This is done using a so-called mediation service where someone reads the written texts for the hearing person and types in the spoken texts of the hearing person for the deaf person. Applications can also be made for a remote interpreter. The interpreter interprets a situation via a PC, laptop, tablet or smartphone (screen) whereby at least one of the parties is at a different location. This person may be the interpreter or one or more participants. Quality criteria have been drawn up for telecom and remote interpreting services based on the results of the study and international guidelines for telecommunication.

217. On 3 October 2016, a private member's bill was submitted to the Dutch Lower House for the recognition of Dutch sign language. Dutch sign language is socially accepted in the Netherlands and standardised with government help, but it is not anchored in law. The people behind the bill argue that legal recognition of Dutch sign language will contribute to the full participation of deaf people in society. The Dutch Lower House is currently waiting for advice from the Council of State (the independent government advisory body in terms of legislation and management) and the response to that advice by the parties that submitted the bill.

218. In the Netherlands agreements have been made for more than thirty years by parties in the field (publishers, the National Library of the Netherlands and the organisations responsible for translating works) about the translation of works for people with reading disabilities, which are laid down in the 'Regulation on accessible reading for people with reading disabilities'. Since the implementation of the EU Copyright Directive 2001/29/EC, the Dutch Copyright Act and Dutch Neighbouring Rights Act constitute a legal basis for this as of 2004.

219. In 2015, the National Library of the Netherlands was assigned the statutory task to make a library provision available for people with reading disabilities, financed by the Ministry of Education, Culture and Science. People who have stated that they have reading disabilities can register with the Suitable Reading Library Service in order to borrow books, newspapers and magazines in an adapted reading format (audio books, Braille, large print, combination reading) and for specific services such as relief and tailor-made reading. The services focus primarily on people with visual disabilities, but are also available to anyone who is unable to read or finds it hard to read due to reading disabilities. Work is done in collaboration with the public library in order to reach as many people as possible. There are now 100 libraries that have all drawn up an action plan to implement the services actively in their branches.

220. Technological developments offer opportunities for autonomous and equal participation by people with reading disabilities, provided general accessibility has been considered as early as during the design of the content and the information carriers (such as newspapers, books and school materials). Assessments are being made with various parties as to how a switch from accessibility afterwards can be made to accessibility at the source.

## **Article 22**

### **Respect for privacy**

221. In the Netherlands, the right to respect someone's privacy is laid down in a general sense in Article 10(1) of the Constitution: 'Everyone shall have the right to respect for his privacy, without prejudice to restrictions laid down by or pursuant to Act of Parliament'. Articles 11 up to and including 13 of the Constitution represent a development of specific aspects (body, home, correspondence, telephone and telegraph privacy) of this right.

222. Until 25 May 2018, the obligation under the Convention to protect the privacy of people with disabilities with regard to data of a personal nature, relating to their health and rehabilitation and then on an equal footing with others, was fulfilled by the Dutch Personal Data Protection Act. Since 25 May 2018, the General Data Protection Regulation has been directly applicable in all EU Member States. Since then, the Personal Data Protection Act has no longer applied and has been replaced by the Dutch GDPR Implementation Act. On specific points, the GDPR offers Member States scope to interpret the provisions differently via implementation acts, such as the GDPR Implementation Act in the Netherlands. With regard to data concerning someone's health, the GDPR and GDPR Implementation Act offer, for example in Articles 22 and 30, the same and in some situations an even higher level of protection for all data subjects than offered under the Personal Data Protection Act, for example in connection with processing personal data, including health data, on the basis of explicit permission.

223. Compared to the Personal Data Protection Act, the GDPR imposes new requirements on explicit permission as a ground for processing personal data. These



requirements offer extra guarantees for data subjects when data is processed on the basis of their explicit permission.

224. Data concerning someone's health may not be processed, notwithstanding the relevant provisions in the GDPR and GDPR Implementation Act.

## **Article 23**

### **Respect for home and the family**

225. In the Netherlands, people with disabilities are treated on an equal basis to others in terms of marriage, family life, parenthood and relationships.

226. The law of persons and family law are provided for in the Dutch Civil Code, containing rules relating to, among other things, marriage, birth and parenthood. All people resident in the Kingdom of the Netherlands have a right to family formation. They can freely decide whether they want to have children and, if so, how they want to do that.

227. It may be that some people are unable to care for a child properly due to their disabilities. The interest of the future child then deserves particular attention.

228. People with mental disabilities who wish to have children or to become parents can be coached by expert support staff, for example consultants from 'MEE organisations' (see Article 20). The Guideline for people with mental disabilities who wish to have a child or to become parents was developed to support these experts. The guideline helps in terms of making responsible choices relating to starting a family. The wish to have children is considered a given and, if responsible parenthood is impossible, the interest of the future child will take precedence. This issue may also surface in the context of assessing what should be regarded as responsible medical care where medical assistance is required to get pregnant.

229. In this context, the Kingdom of the Netherlands made a declaration to Article 23(1)(b). The text of the declaration links up with Article 23(2) of the Convention which indicates that, when safeguarding the rights and responsibilities of people with disabilities with regard to matters such as guardianship, wardship, trusteeship and adoption of children or similar institutions, the best interests of the child must always be paramount. The declaration provides a comparable weighing up of interests in situations of a future child. The interest of the child is also paramount in this weighing up of interests. No distinction is made on the grounds of disability. The Act on the Placement of Foreign Children for Adoption does not contain any provisions which can prevent adoption by prospective adoptive parents with disabilities. Having a disability is, however, included in the assessment of the suitability of the prospective adoptive parent(s). This then relates to the nature and scope of the disability and whether it involves a progressive disorder which may hamper the functioning of the prospective adoptive parent in terms of parenthood.

230. In the Netherlands, everyone with a disability can count on good quality care and support. This applies both to children and adults. Children with a disability have numerous options when it comes to continuing to live at home. Their parents are eligible for care, nursing and support at home under a range of acts (Youth Act, Social Support Act 2015, Healthcare Insurance Act and Long-Term Care Act). Care can be provided both in a non-monetary form and via a so-called personal healthcare budget (see also Articles 3 and 4).

231. The mother or parents with mental disabilities who live in an institution for long-term care ('Wlz institution') can take responsibility for raising their child with (or without) a disability. If the parents have mental disabilities, but are not living in a Wlz institution, they can receive support in terms of caring for their children, for example through client support, or via an organisation such as MEE or Ieder(in), a network for people with disabilities or chronic illnesses. If that is insufficient, they can contact the municipality for support with child raising, for example the Neighbourhood Social Services Team or a Youth and Family Centre (a local, low-threshold organisation which anyone can contact with questions about child raising and child development).

232. Under the Youth Act (Articles 2.1 and 2.3), municipalities are responsible for providing youth assistance and prevention services aimed at, among other things, the prevention, identification and early tackling of problems relating to child raising and child development, boosting the level of child-raising knowledge in families, neighbourhoods, districts, schools and childcare facilities and promoting the child-raising skills of the parents. The starting point is that the parents and the young person themselves initially are responsible for the healthy and safe upbringing, and that children should be raised as healthily and safely as possible in their own family situation. This also applies to parents with mental or other disabilities.

233. If necessary in the child's best interest, the Child Care and Protection Board can ask the juvenile court to impose a protection measure. This Board will then assess the necessity of a protection measure and also advise which certified institution is most suitable to implement it for the family in question.

234. There are three different child protective measures which the juvenile court can impose:

(a) The juvenile court can place young people, who are growing up in a situation in which their welfare or health is threatened, under supervision whereby the parent's authority will be restricted. The family will be assigned a family supervisor and will be offered help in order to reduce the threat to the child's development. Wherever possible, parents themselves remain responsible for raising and caring for their children and the aim is to allow the child to continue living at home where possible. The supervision order is provided for in the Dutch Civil Code and is, in principle, a temporary measure. If served with a supervision order, parents must accept help with raising their child;

(b) If the supervision order is not sufficient, the juvenile court can issue a placement in care order. The Civil Code specifies the conditions under which this is possible. The Youth Act stipulates whether the child, if reasonably possible, should be placed with a foster family or specialist family home. This Act prescribes that a young person can only be taken into care if this is demonstrably in that person's interest. The Civil Code and Youth Act apply to all young people and no distinction is made between children with or without disabilities;

(c) The juvenile court can terminate parental authority. This is only possible in extreme cases if it becomes apparent to the court that a parent – put briefly – is permanently 'unsuitable and incapable' to care for and raise their child, as a result of which the child cannot grow up in a safe environment. This is also stipulated in Article 9(1) of the UN Convention on the Rights of the Child.

## **Article 24 Education**

### **Basic education**

235. In the Netherlands every child has a right to education and development. All children have access to (free) primary and secondary education. Within the educational system help is available for all children that need extra support. These may be children that (also) have disabilities. The right to education is protected in the Netherlands by the Compulsory Education Act 1969.

236. Since time immemorial the Netherlands has had an education system comprising mainstream and special schools. This means that children with specific disabilities (such as children with serious multiple disabilities) have the option of attending education at a specialised facility for special education or special secondary education. In secondary special education students can choose from three graduation profiles: diploma-oriented, labour market or daytime activity.

237. The 'education-that-fits' system was introduced in the Netherlands on 1 August 2014. It was also stipulated at law (in the Appropriate Education Act) that schools have a

duty of care: for every child that needs extra support, the most appropriate education should be offered.

238. The introduction of the ‘education-that-fits’-system created structural and improved conditions for the more effective tackling of the problem of children who (temporarily) stop attending school and stay at home. The school board has a duty of care with respect to registered pupils and the school has the responsibility of guaranteeing that pupils are offered the most appropriate programme, if possible at a mainstream school. The school does this in close consultation with parents, municipalities, youth care organisations and other partners. It is no longer permitted to refuse pupils without tailored education being available. The point of departure of ‘education that fits’ is mainstream where possible, special where necessary. A child should receive education in which he/she can best develop his or her talents. Special provisions (schools) are available for pupils who need very specialist education and care.

239. Work has been going on in recent years (via ‘education-that-fits’-partnerships) to realise coherence in education facilities for all pupils in the region. In the 2015–2017 period measures were also introduced to enable the continued improvement of the possibilities for tailor-made solutions. For example, a pupil who is registered with a special school, can follow part of the programme at a mainstream school (symbiosis) and the government is encouraging the (greater) use of expertise from special education at mainstream schools. There is also a focus on improved support for pupils, schools and parents. If it is extremely difficult to place a school-age pupil as a consequence of a disability, chronic illness or disorder, parents and pupils can engage the help of an education (care) consultant free of charge. As of 1 August 2018 a legislative amendment is also going to enter into force under the terms of which mainstream schools can temporarily deviate from the number of educational hours if this is in the interest of a tailor-made provision for a particular pupil. This used to be possible only in secondary special education.

240. An easily accessible, free, national disputes committee has been formed to which parents can submit a difference of opinion regarding admission, exclusion or the implementation of educational support.

241. In order to create a tailor-made provision in specific instances, a government intervention team was active in the period from 2016 to 2018, with involvement by organisations that can support parents and schools locally, such as the education (care) consultants and the ‘Gedragswerk’ foundation. This intervention team has played an important role in various cases in ensuring that pupils who are at home can once again attend school and receive tailored education.

242. The PE Council (sector organisation for primary education) receives a subsidy to support developments at local level. At the request of the education field, conditions for an experiment have been developed in which special and mainstream schools can temporarily cooperate on providing integrated education. The registration deadline for the first part of this experiment ran until 1 May 2018.

243. At the request of the Ministry of Education, Culture and Science, the Dutch Centre for Education Law (whose members are professors in education law) issued a report on education rights on 1 December 2016 which assessed the relationship between ‘education that fits’ and inclusive education. They established that the Dutch system is currently not contradictory to the Convention, but that a thorough social and political discussion is desirable in order to assess where further development is possible.

244. Special education and care are available for pupils with visual and auditory disabilities. These cluster 1 (visual) and cluster 2 (auditory) institutions offer pupils extra support, for example with learning Braille, sign language and/or self-reliance. This is possible both in schools for mainstream and special education. It involves teaching materials being converted into accessible reading format and pupils can also use provisions such as Braille reading devices and sign language interpreters.

### **Secondary vocational education**

245. The lump sum institutions receive includes a proportional budget for the offer of 'education that fits'. Under the Act on Equal Treatment on the grounds of Disability or Chronic Illness they must provide a tailored education pathway for anyone who needs extra support to attend and finish the secondary vocational education programme, including appropriate support.

246. Institutions interpret this in different ways. By far the majority of students are taught at schools for mainstream secondary vocational education. Institutions offer support in classrooms and elsewhere, provided by specialists and, after making the necessary arrangements, more and more by the teachers themselves.

247. Professionalization of teachers in terms of pedagogy and teaching is the spearhead in this phase. Teachers must be aware of differences between students and act accordingly. Key elements in the repertoire of actions are differentiation in the way education is provided, students are treated, appropriate work placements are offered and adapted examinations for generic and vocational-oriented parts are administered.

248. Young people in a vulnerable position are stimulated at all secondary vocational education levels to make the best possible use of their own capacities. Transfers from one type of education to another are potentially risky moments which receive special attention. Cooperation between various educational centres and institutions is important in order to minimise the risk of failure for students.

249. In the event of disputes about admission or support, students and their parents can use the institution's complaints procedures, or contact the Netherlands Institute for Human Rights for mediation and advice. Where appropriate, students and parents can go to court directly.

### **Higher education**

250. In the Higher Education and Scientific Research Act the government has stipulated that, where funded and non-funded programmes at higher education level are considered for accreditation, an assessment is to be made of, among other things, counselling and facilities which increase accessibility and learning feasibility for students with functional disabilities. The Dutch centre of expertise for studying with disabilities has also developed a policy scan to assess policy relating to studying with a disability.

251. The government has also included various measures in the Higher Education and Scientific Research Act and in the Student Finance Act to enable students with functional disabilities to claim financial support, including financial support from the institutions and the partial cancellation of any student debt.

### **Other support**

252. Pupils with disabilities who need support travelling to an educational institution can use school transport facilities. Since 1920 it has been laid down in education legislation that the municipalities are responsible for implementing school transport facilities. Since 1987 municipalities have had more policy scope when it comes to implementing school transport facilities – within the boundaries of the rules included in education legislation – for example by weighing up the pros and cons of private transport, public transport, possibly in combination with supervision and adapted transport.

253. Based on the Act on Equal Treatment on the grounds of Disability or Chronic Illness pupils and students in basic education, secondary vocational education and higher education are entitled to individualised modifications and support unless that leads to a disproportionate burden on the educational institution.

### **Accessibility of educational materials**

254. In the Netherlands various measures have been taken to ensure that education is offered in languages, teaching methods, means of communication and (learning) environments which are suitable for the pupil or student. For pupils and students with

audiovisual and visual disabilities, the government subsidises the conversion of existing teaching materials into an accessible format. At the request of pupils, students, people in work or job seekers with visual disabilities, the Dedicon foundation converts existing school and study materials into various alternative reading formats which can be used by these groups, such as: tactile drawings, Daisy talking books, Edu files (digital Braille files), photo pdf files, music Braille and music audio.

255. There is also a focus on accessibility within the ‘Smarter learning with ICT’ programme.

256. A number of schools/boards are collaborating on the use of technology in order to resolve various sticking points. The themes worked on include accessibility of digital teaching materials for people who are blind and partially sighted and the development of more and better digital teaching materials for children with serious, multiple disabilities.

### **Teacher training**

257. The Standards of Competence (Teaching Staff) Decree states, among other things, that pedagogically competent means that the teacher can create a clear relationship between the learning objectives, the level and the characteristics of their pupils, the course content and the content of the various methodologies and resources. In order to be pedagogically competent a teacher or lecturer must also know at least various ways of differentiating within a teaching method and doing justice to differences between pupils.

258. Universities of applied science that offer teacher training programmes have created the generic knowledge base which stipulates, among other things, that ‘education that fits’ deserves attention in the programme and that, where diversity is the subject, attention must also be paid to pupils with disabilities. A relatively large number of teachers, including those in mainstream education, follow the Master’s programme in SEN (special educational needs) after their initial training and some of them even do so repeatedly (with a view to specialising in different and/or multiple disabilities).

## **Article 25 Health**

### **The Dutch health care system**

259. The Dutch health care system guarantees equal access to care for any policyholder. The right to care is safeguarded in the national Constitution.

260. The Kingdom of the Netherlands has made a declaration to Article 25. Article 25(a) is interpreted in light of access to and affordability of healthcare whereby the Kingdom has confirmed that discrimination in this area is not permitted. At the same time the Kingdom considers it important that healthcare professionals may determine which healthcare is provided on medical grounds and the expected (in)effectiveness thereof. This can, for example, play a role in the supply of fertility techniques in relation to responsible parenting and the interests of the planned child. When offering IVF, for example, medical factors determining the chance of success, the interests of the planned child as well as the possibilities of the prospective parents in terms of responsible parenting are assessed. This may mean that a disability prevents the provision of a specific form of care, as may incidentally also be the case based on a course of illness or other specific characteristics of the patient.

261. The Kingdom also indicated that the individual autonomy of the person is an important principle as laid down in Article 3(a) of the Convention. The Kingdom indicated that Article 25(f) should be read in light of this autonomy. This provision therefore clarifies that good care means that a person’s wishes with regard to medical treatment, food and fluids are respected and that a decision to withhold these can also be based on medical grounds. Respecting a person’s wishes can, for example, be important if a patient wants to undergo palliative sedation and then receives no more food or fluids. This process brings a person into a lower state of awareness and food and fluids are no longer administered.

262. It is important that patients who are unable to appreciate their interests reasonably receive the best care, which is tailored to their personal situation. Deciding not to provide care or services based on understandings of what responsible care is, e.g. no pointless medical action is taken, does not produce any prohibited distinction and, in the opinion of the Kingdom, falls beyond the object of the treaty provision. For example, a decision can be taken on medical grounds to stop administering food and fluids.

263. Access to healthcare (the provision and funding) is facilitated by the Dutch system of social health insurance (Long-Term Care Act and Healthcare Insurance Act and provisions which fall under municipal responsibility (Public Health Act and Social Support Act 2015). No prohibited distinction may be made for people with disabilities where it concerns entitlements and reimbursements. Whether an entitlement exists will be determined exclusively on substantive medical grounds (see also the declaration).

264. Anyone who lives or works in the Netherlands must take out basic health insurance. Healthcare insurers are legally obliged to accept any person who has to take out a basic insurance policy. This duty to accept is guaranteed in the Healthcare Insurance Act. Consequently, no distinction may be made on the basis of sex, age, health, or disability. What the basic package covers is determined by the government and is the same for every policyholder with any insurer. The price per type of basic insurance policy may differ, but the healthcare insurer must charge the same nominal premium for the same kind of policy for each policyholder – irrespective of their age or health. In addition to that, policyholders can also opt for a supplementary package. This is not obligatory and may vary per insurer in terms of nature, scope and price. Although supplementary insurance is not subject to a duty to accept, in practice few people are refused. A statutory financial allowance, the health insurance allowance, is available to low-income policyholders. In addition, there are various municipal schemes which a policyholder can use, such as a municipal policy.

265. The Dutch healthcare system has various forms of co-payments. The Healthcare Insurance Act is subject to an obligatory general policy excess of €385 per policyholder per year, as well as co-payments for part of the entitlements. The policy excess is set off over the first euros spent on care. Co-payments are primarily required in conjunction with medical appliances, such as glasses, hearing aids, orthopaedic shoes and some pharmaceuticals. The law stipulates for what products and which percentage of co-payments have to be paid. The Long-Term Care Act also has co-payments for care entitlements which are income-linked. The Social Support Act 2015 also has an income-linked co-payment which is currently being changed into a subscription rate. The latter two Acts contain rules which intend to prevent any cumulation of co-payments, i.e. the total of co-payments under the Long-Term Care Act and the Social Support Act 2015 is subject to a maximum.

266. The health insurance allowance exists at national level to compensate low-income individuals for a large portion of the healthcare insurance premium and the policy excess. In addition, some healthcare costs, such as costs for medicines and medical aids, are tax-deductible. These are referred to as ‘specific healthcare costs’. A threshold applies to specific healthcare costs, depending on the individual’s income and assets. The portion of the health care costs exceeding the threshold can be deducted. This does not cover the policy excess. In addition, a municipal fund is available for tailor-made financial support in connection with the costs of care and support.

### **Rehabilitation care**

267. The Dutch healthcare system offers various forms of rehabilitation care, such as geriatric rehabilitation care, specialist medical rehabilitation care and sensory disability care. Geriatric rehabilitation care is intended to help vulnerable people with complex multiple problems and reduced capacity to learn and train to return to the home situation and to participate in society as well as possible. Specialist medical rehabilitation care is intended to help people who are (have become) disabled, due to illness, accident or a congenital disorder, to become more self-reliant and to participate again in society. Sensory disability care is intended for people with a visual or auditory disability, or a communicative disability as a consequence of a linguistic development disorder. This rehabilitation care is aimed at learning to deal psychologically with the disability and interventions which

terminate or compensate the disability and therefore increase self-reliance with the aim of enabling the policyholder to function as independently as possible. Under the Long-Term Care Act, sensory disability care concerns the complex, long-term and life-wide support to people with sensory disabilities and within the Social Support Act 2015 this concerns elements which relate to supporting self-reliance and participation in society.

### **Screening programme**

268. The national government offers eight tests via the National Population Screening Programme. The target groups themselves decide whether to participate or not. The tests in question are:

- Blood screening for pregnant women to detect infectious diseases and red blood cell immunisation;
- Prenatal screening for pregnant women to detect Down's, Edwards and Patau syndrome;
- Ultrasound scans, otherwise known as the 20-week echo, for pregnant women following indications of physical, structural anomalies in the foetus;
- Neonatal heel prick screening of newborns;
- Neonatal hearing screening of newborns;
- Population screening to detect breast cancer: women aged between 50 and 75 receive an invitation every 2 years;
- Population screening to detect cervical cancer: all women aged between 30 and 60 receive an invitation for this every 5 or 10 years (depending on whether the HPV virus is detected);
- Population screening to detect bowel cancer: all men and women aged between 55 and 75 receive an invitation for this every 2 years.

### **Antenatal and neonatal screening programmes**

269. The antenatal and neonatal screening programmes are accessible to people with disabilities. The information about screening programmes is provided verbally by the obstetric care providers in question so that tailor-made information can be given, taking into account any mental disability where necessary. Materials have been developed to support most screenings, such as illustrative material that can be used by the screener when visiting parents.

270. The information is also available via the website of the National Institute for Public Health and the Environment which complies with the government's accessibility requirements. Among other things, this means that the website has to be accessible for people with auditory or visual disabilities.

### **Population screening for cancer**

271. In the case of breast cancer population screening, individual appointments are made for women with disabilities and a telephone questionnaire is used to assess whether the mobile unit used for this kind of screening is a suitable location. If this is not the case, an assessment will be made to see whether a permanent unit is suitable. The policy of the breast cancer population screening focuses on ensuring that women with disabilities are treated where possible in the same way as other women, are examined in accordance with the same quality criteria and that the screening takes place in the same controlled and monitored environment. By way of an exception, a local care location is therefore provided for mammograms, paid for by the screening organisation. No separate policy exists for bowel cancer and cervical cancer population screening. For the first test, people can take the necessary sample in their home, and do the same or go to their GP for the second test.

### **National Immunisation Programme**

272. In the Dutch National Immunisation Programme children receive vaccinations to immunise them against twelve serious infectious diseases during their first few years of life. The aim of the Programme is to vaccinate everyone. If that is impossible, solutions will be found, such as vaccination at hospital, institution or, on very rare occasions, even at home. Information for the public is drawn up with special attention being paid to accessibility for people who are partially sighted, hard of hearing and functionally illiterate.

273. The Youth Healthcare guidelines take into account children with disabilities. For example, the visual disorders detection guideline includes an adapted measuring method and referral route for children with mental disabilities. The same applies to hearing screening. Parents of children with disabilities are advised by the Youth Healthcare organisation on practical child-raising issues. Youth healthcare is available to all children, apart from children with such disabilities that the contact moments are arranged via the hospital.

### **Health campaigns**

274. Campaigns by the Ministry of Health, Welfare and Sport must comply with certain guidelines, as do all broad-based government campaigns. These guidelines apply to all national government departments. The Ministry of Health, Welfare and Sport does not create separate campaigns for people with disabilities. However, the Ministry does aim to reach the broadest possible group of people by using an optimal media mix. The Ministry also tries to ensure that its message reaches as many people as possible by varying the message per medium.

275. In addition, online campaign communications must meet detailed requirements so that they are accessible to everyone, including visitors who have visual disabilities or are colour-blind. All texts placed online must be written in understandable Dutch, at language level B1.

276. Videos of campaigns which are placed on campaign websites, or national government websites, have to meet various requirements. For example they have to be subtitled and accompanied by an audio description and transcript containing detailed information about what is happening and which people can be seen on the screen.

### **Foundation doctor, medical specialist and nursing training**

277. The training programmes for foundation doctors, medical specialists and nurses are based on the CanMEDS model because this model contains a good quality and useful classification of roles and competencies of the doctor or nurse and because the model is also used within the framework of modernising further medical training programmes. The CanMeds Model is a Canadian method used to qualify training for care providers in terms of competencies. One of the competencies of this method which foundation doctors or nurses must have is the Communicator competency. This means that they are expected to have an adequate understanding of how to deal with various groups of patients, including people with disabilities. Six general competencies are important for medical specialists, alongside the 'Medical Expert' competency, which describes the professional skills. Aspects of treating specific patient groups are dealt with primarily when the competencies are developed. The development of skills is explicitly described and embedded in the training programmes in which a patient's chronic disabilities play a role. The training plan applies nationally.

278. The framework plan for the basic medical training programme is currently being revised. The Ministry of Health, Welfare and Sport is consulting with the Royal Dutch Medical Association and will draw their attention, within this framework, to the implementation of the Convention.

### **(Medical) treatment and informed consent**

279. On the basis of the Medical Treatment Contracts Act a patient has to be properly informed by the care provider in order to give or withhold consent to any (medical)



treatment: ‘informed consent’ (see also Article 17). Insofar as a patient aged sixteen or over is considered unable to appreciate his interests reasonably, due to his mental condition or due to another reason, he can be represented in this matter (if a patient is aged between twelve and sixteen, the parents or guardian can decide in such an instance). The obligations arising from the Medical Treatment Contracts Act then apply vis-à-vis the representative. The fact that a patient has a representative does not, however, mean that he has no understanding whatsoever of his situation. The care provider must always weigh up whether the patient in an actual situation is able to appreciate his interests. Moreover, if a representative, by his actions, turns out not to exclusively serve the patient’s best interests, the care provider need not automatically follow every expression of will of the representative. Lastly, if the legally incapable patient objects, the procedure cannot be carried out unless it is manifestly necessary in order to prevent serious harm, or does not involve a drastic procedure. This gives weight to the opinion of the legally incapable person. The freedom to undergo or to refuse medical treatment is, after all, substantial in the light of self-determination and autonomy.

280. For information on compulsory treatment and medical scientific research, see Articles 14 and 15.

#### **Accessibility of information on HIV/AIDS and malaria**

281. The Netherlands regards people with disabilities not as a specific risk group for which separate awareness campaigns or other measures ought to be conducted or taken. Work to combat STDs/HIV in the Netherlands focuses on risk groups. Wherever the risks are greatest for STDs/HIV, the Public Health Services not only test upon request but also do outreach work. Wherever people with disabilities are part of a risk group, this is taken into account in the way in which the outreach work is performed (tailor-made approach). The Public Health Services are perfectly equipped to work with vulnerable groups.

### **Article 26**

#### **Habilitation and rehabilitation**

282. Habilitation and rehabilitation are regarded as important first steps to ensure that persons with disabilities are able to live independent lives. Habilitation means learning skills to enable someone to function in society. This usually concerns children who have been born with disabilities. Rehabilitation means restoring skills and competencies. In general terms, this affects adults who have acquired disabilities later on in life.

283. Under the Social Support Act 2015, municipalities are responsible for social support (see Articles 3 and 4). People who need some kind of support can contact the municipality; it is easily accessible and there is no prescribed form for doing so. The Act stipulates that, in such instances, the municipality must assess the requirements, characteristics and individual circumstances of the person in question. The assessment, which also involves other areas of life such as care, education and philosophy of life, may lead to a decision to grant a ‘tailor-made provision’.

284. The fact that a tailor-made provision has to be created means that a whole range of provisions may be suitable, such as services, medical aids, adaptations to the home and other measures. With this in mind, municipalities conclude contracts with a wide range of (care) providers and other suppliers.

#### **Rehabilitation care**

285. Healthcare insurers have the obligation to ensure that policyholders receive the care (or reimbursement of the costs of that care) they need and are entitled to under their care insurance policy. The care insured in the basic package of the Healthcare Insurance Act also includes rehabilitation care. This rehabilitation care can be provided by a rehabilitation specialist (specialist medical care) or, in the case of geriatric rehabilitation care, by a geriatric care specialist (medical care as general practitioners are supposed to offer). A rehabilitation specialist is a legally recognised specialist title which falls under the

regulations of the Individual Health Care Professions Act, which is a quality-oriented act designed to protect patients.

286. The professional group of rehabilitation specialists obliges rehabilitation specialists who have registered in the Individual Health Care Professions register to take part in quality inspections which involve, among other things, an assessment of whether the specialists in question act in accordance with the applicable guidelines adopted by that professional group. In order to remain listed in the register as a rehabilitation specialist, the specialists in question must continue their training every year in the field of medical expertise, communication, cooperation, knowledge and science and social medical expertise. These competencies are based on the model of the Canadian Medical Education Directives for Specialists 2000 (CanMEDS 2000 – see also Article 25(5)) and formulated in the Rehabilitation Medicine Training Plan. This also states the requirements which training programmes for rehabilitation specialists have to comply with.

#### **Entitlement to medical aids under the Healthcare Insurance Act**

287. The Healthcare Insurance Act stipulates that policyholders are entitled to medical aids or reimbursement thereof. This relates to medical aids specified in the Health Insurance Regulations which are intended to compensate functional disorders as a consequence of a condition or disability referred to in the regulations, for example external medical aids to replace or compensate for a lack of body parts (prosthesis) or related to hearing disorders (hearing aids) or visual functioning (special contact lenses), as well as medical aids related to disorders in the motor system (not being simple walking aids such as a walker) and medical aids for communication, the provision of information and alert devices (personal alert devices for a person with a physical disability in a heightened risk situation). The medical aids must function adequately. This means that a medical aid which is suitable for the disability must be delivered ready for use with any accessories and user instructions so that the person with a disability will know how to use the medical aid.

### **Article 27**

#### **Work and employment**

##### **Prohibition on employment discrimination**

288. The Act on Equal Treatment on the grounds of Disability or Chronic Illness states that discrimination on the grounds of handicap or chronic illness in relation to employment is prohibited. See also Article 8.

289. The Dutch government set up the Employment Discrimination Team at the Inspectorate in order to enforce the statutory in-company anti-discrimination policy, which employers are obliged to implement. The team enforces the policy in respect of twelve grounds of discrimination, chronic disorder/disability being one of them.

##### **Measures to promote participation in employment by people with disabilities**

290. In the Netherlands agreements have been made about employing people with occupational disabilities. The government, employers and employees agreed in the ‘2013 Social Agreement’ that employers in the market sector will create 100,000 jobs for people with occupational disabilities by 2026 and that employers in the government sector will create 25,000 such jobs by 2023. These agreements have been laid down in the law.

291. In order to achieve these targets the Participation Act and the Occupational Disability Act were introduced in 2015. The goal of these Acts is to give people with occupational disabilities more opportunities for regular jobs in order to contribute to an inclusive labour market. The Occupational Disability Act prescribes that employers are required to comply with the agreements made. Under the Participation Act, instruments and financial allowances are being made available to employers (such as a wage costs subsidy, a no-risk policy, a job coach and workplace adaptations). The Participation Act includes ‘sheltered employment’ for people who can only perform paid work in sheltered circumstances.

292. The developments of both the Occupational Disability Act and the Participation Act are monitored from time to time. The most recent report was published at the end of December 2017. The results for the Occupational Disability Act for 2016 were published in July 2017. This revealed that all employers together (market and government sectors) reached the targets set. The government sector itself underperformed, meaning that a quota scheme was activated as of 1 January 2018.

293. Participation in employment by people with occupational disabilities requires a great deal of effort in the long term: by these people themselves, employers, municipalities, the Employee Insurance Agency (hereinafter referred to as 'the Agency') and the government. The coalition agreement of the current government (October 2017) expressed the ambition of offering more prospects for work to people with disabilities. Municipalities have been given more activation scope, for example to create more sheltered workplaces, to ease the burden on employers and to offer tailor-made solutions which link up with citizens' needs. In order to finance this extra effort the choice was made in the coalition agreement to replace the wage costs subsidy in the Participation Act with wage exemption. The overriding factor is that it is important for employers that they are compensated if the productivity of people with occupational disabilities is lower than the total labour costs at minimum wage. Where wage exemption is granted, the employer is permitted to pay the employee in accordance with his/her productivity (wage value) and in doing so he pays a wage below the statutory minimum. Where necessary, the employee will receive an additional benefit from the Agency or from the municipality. The wage exemption has been used for years under the Incapacity Insurance (Young Disabled Persons) Act to encourage employers to recruit people with occupational disabilities.

294. This gives employers a simpler set of instruments to take on people with disabilities and the intention is that work done by employees on the basis of a wage exemption is financially worthwhile. Available resources are used to provide more help for people with disabilities to find work. When preparing the bill in which the wage exemption is regulated, the government will examine, with all parties involved, how this instrument can best be structured.

295. People in incapacity schemes often find it difficult to find long-term employment again. For some it is complicated to find a job independently, or their training does not link up with the available jobs. The government therefore wants to increase the opportunities of finding long-term employment for people in incapacity schemes by investing in support in two ways. Firstly, during implementation of the initiative by the Agency, 30 million euros more is being made available for personal services to people on benefits in connection with the Resumption of Work of Partially Disabled Workers and the Incapacity Insurance (Young Disabled Persons) Act. Secondly, the government has made 30 million euros available for an experiment for training which can contribute to resumption of work. The experiment focuses on providing forms of training for those entitled to benefits under the Resumption of Work of Partially Disabled Workers Act for whom training is medically feasible and can result in more useful opportunities on the employment market. Where the business case is positive, training can be implemented more broadly. Expectations are that these measures will help more people to find long-term employment.

296. People with occupational disabilities can rely on the municipalities or the Agency for a work provision which offers support during work or removes barriers. Municipalities are responsible for offering work provisions to people who want to work under the Participation Act. Municipalities have policy freedom to interpret the job support within the statutory frameworks and to impose rules in the form of regulations regarding the use of suitable instruments (tailor-made solutions). In the process, municipalities can use instruments such as reintegration procedures, trial placements, participation placements, job application training, education, etc. alongside the instruments included in the law, such as work provisions or sheltered employment.

297. All recipients of benefits under the Incapacity Insurance (Young Disabled Persons) Act, the Unemployment Act or the Work and Income according to Labour Capacity Act are entitled to work provisions based on the Work and Income according to Labour Capacity Act via the Agency. The Agency uses intermediary provisions, portable provisions to help set up the workplace, the production and working method, essential personal support (job

coach) and transport facilities. Municipalities can also use these provisions where necessary. Specifically for publicly insured people who are eligible for benefits under the Work and Income according to Labour Capacity Act and recipients of benefits under the Incapacity Insurance (Young Disabled Persons) Act, the Agency offers the possibility of using activating services via an employment expert. These groups are entitled to support, and the Agency can use more or less the same instruments as municipalities. The Agency has access to a reintegration budget to purchase possible reintegration procedures of which work experience may be an element. The Agency annually monitors the employment participation of people with occupational disabilities.

298. It is extremely important to provide proper coaching for people with occupational disabilities. Given the fact that the Participation Act is implemented decentrally it is, in the first instance, up to the municipalities and regions to ensure that sufficient and properly trained job coaches are available. Where possible, support is provided by the Ministry of Social Affairs and Employment. In mid-2017, for example, a practical brochure entitled 'Getting started with job coaching' was published. This intends to help municipalities and employment market regions make choices in terms of policy and practical implementation. In addition, the support provided by municipalities to people from the Participation Act target group is assessed using periodic monitoring of the Participation Act.

299. Employer services at regional level is very important in order to bring together hard-to-place job seekers and employment opportunities. In order to promote proper regional infrastructure the Decree on the Work and Income Implementation Structure Act states that additional agreements are to be made on cooperation between municipalities and the Agency via regional work placement branches. The 'Match with work' programme implemented by the national government focuses, within this framework, on coordinating employer services in the employment market regions.

### **Improving the granting of work provisions**

300. Some people with disabilities need certain provisions in the workplace. This may mean, for example, support provided by a sign language interpreter or portable provisions which can be used to set up the workplace, production and working method. Recipients of benefits under the Incapacity Insurance (Young Disabled Persons) Act, people eligible for benefits under the Unemployment Act or the Work and Income according to Labour Capacity Act and people who have earned the statutory minimum wage for two years can claim work provisions from the Agency. Municipalities are responsible for offering work provisions to people who want to work under the Participation Act. The Agency and the municipalities also provide support in the form of essential personal coaching (job coach) and transport facilities.

301. The government is aware of the fact that the added value of policy instruments is based on their practical application in the workplace. In practice there are a number of barriers that hamper the use of work provisions. That is why this government has initiated a process of improvements. That should lead to shorter turnaround times in terms of granting provisions and less uncertainty by those involved about the realisation of the work provision. The Agency has put together a special team to realise additional improvements between now and the end of 2019. Interest groups are closely involved with the Agency via periodical consultations.

302. In particular, attention is paid to improving and harmonising the use of interpreters. A front office will be set up at the Agency, responsible for central implementation for the living, work and education domains. A bill to regulate this will be submitted to the House of Representatives in mid-2018. Consultations with interest groups on the realisation of additional harmonisation of the implementation process are taking place.

303. A study by the Dutch Inspectorate of the Ministry of Social Affairs and Employment shows that the transfer and supervision of vulnerable young people from school to work is organised with considerable care in many municipalities. The 'Switched On' project started at the end of 2017, which was an initiative of umbrella organisations of schools for secondary special education and practical education, employers and municipalities. Backed up by support from the Ministries of Social Affairs and Employment and Education,

Culture and Science, the project intends to boost actual cooperation between employers, schools and municipalities. The aim of the project is to take direct cooperation between secondary special education/practical education schools, municipalities and employers to the next level, to optimise it where possible and to safeguard it in the existing permanent structures in the region so that pupils at practical education and secondary special education levels can go straight from education to work in order to reduce the risk of them being overlooked and ending up idle at home. During the project successful examples of cooperation are collected and widely publicised. The project also gets to grips with issues in the region where necessary in order to link together networks of employers and schools with municipalities. The project will run until the end of 2019.

### **Measures for the most vulnerable groups**

304. People with psychological disorders have even more trouble finding and staying in work. This is despite the fact that work is important for the recovery of precisely these people (work as medicine). That is why officials at the Ministry of Social Affairs and Employment and the Ministry of Health, Welfare and Sport started a project to improve employment participation together with, among others, GGZ Nederland (the sector organisation for mental health care and addiction care institutions), the Agency, municipalities, employers' federation VNO-NCW and representatives of clients.

305. Cooperation between mental healthcare institutions, municipalities and the Agency is crucial for this. The Dutch government has decided to boost that cooperation by making available € 3.5 million in total.

306. Almost all the employment market regions from which municipalities and the Agency provide services to employers and job seekers have submitted plans and started work in September 2017. This means that the parties involved will intensify and perpetuate cooperation in their working method, aimed at getting more people with psychological disorders into work and providing them with appropriate support. The government acts as coordinator, making sure that the regions learn as much as they can from each other during execution.

### **The national government as an employer**

307. With a view to hiring more people with occupational disabilities, the government has taken various measures as a result of the arrangements in the 2013 Social Agreement.

308. It has transpired, however, that the government failed to achieve the employment targets for people with occupational disabilities in 2016. A number of problems were encountered during the implementation. That is why extra measures are now being taken. In the autumn of 2017, all the ministries were asked, upon activation of the quota scheme, to draw up multi-year action plans to create jobs for this target group based on support, financing and job creation. When activating the quota the government announced a variety of studies. The results will be available in mid-2018.

309. Special state programmes have resulted in the government hiring individual highly-trained young people with disabilities and in the hiring of groups of lower-skilled people with occupational disabilities who perform work in teams.

310. Where necessary ministries can receive support from a shared service organisation during the recruitment of persons with occupational disabilities. Government employees with disabilities and/or chronic illnesses can get adapted workplaces and working hours. The government is currently working on setting up an advisory group of employees with occupational disabilities who can provide input to improve access to jobs with the government. Government employers are creating specific ranges of tasks for persons with disabilities who cannot earn the statutory minimum wage independently because it has transpired that this specific target group is difficult to place in regular vacancies. In this context employers use methods such as job carving and job creation at individual workplaces or in teams. The ministries also explore the possibilities, in cooperation with commercial players, of creating work by procuring services (social return). This approach will be intensified in the near future.

311. The government sectors working together to create jobs for persons with disabilities, for instance by sharing knowledge and exchanging good practices. They are supported in this by the Association of Government Sector Employers.

312. The national government is encouraging inclusive employment practices in the Netherlands. One of the instruments available to both public and private employers is: [www.toolboxinclusief.nl](http://www.toolboxinclusief.nl). This toolbox contains practical information about how to work towards an inclusive employment organisation, in particular recruitment, selection, maintaining intake and career development of people with occupational disabilities.

## **Article 28**

### **Adequate standard of living and social protection**

313. In the Netherlands, the provision of general social security benefits creates, on the one hand, a social safety net wherever people really need to fall back on and, on the other hand, an arrangement which encourages these people to go (back) to work if possible. The Netherlands has also taken numerous measures to increase participation of people with disabilities (see Article 27). The measures in question have a positive impact in terms of ensuring that this target group acquires a satisfactory standard of living and social protection.

314. Despite the existence of this safety net, people can still experience financial problems. In addition to the provision of general social security benefits at the social minimum level, the Participation Act therefore also provides an adequate set of instruments which municipalities can use as necessary to offer additional income support. These income support instruments, namely special assistance benefits, individual income supplements and individual study allowances, have been decentralised to the municipalities. At local level, tailor-made solutions can, after all, be offered which also take into account individual circumstances such as medical limitations and local circumstances. Individual tailor-made solutions are therefore an important starting point when providing additional income support. The 'individual study allowance' is available specifically for students with medical limitations. It is an extra form of support for people with disabilities who want to study. It intends to offer financial compensation for the fact that this group often has trouble combining a course with a part-time job, which other students do not experience.

315. Authority and responsibility for the Dutch policy relating to additional income support is vested primarily in the municipalities. By offering individual tailor-made solutions they are able to pursue an effective policy to alleviate poverty and to provide an integral solution for the problems faced by those concerned. Not only is the aim to offer monetary support, but to improve the personal and social situation and to enable the people in question to take part (once again) in the employment process.

316. Agreements are in place at pension administrators so that employees who become partially incapacitated as from 1 January 2014 and then switch to another employer do not lose any entitlements to occupational disability pensions. These agreements resolve a problem which may not be that big in terms of scope, but does represent a serious barrier for the sick and incapacitated employees concerned in terms of making maximum use of their opportunities on the employment market.

## **Article 29**

### **Participation in political and public life**

#### **Election process**

317. In light of the Dutch government's aim to create a more inclusive society in which everyone can participate, irrespective of their talents or disabilities, the government considers accessibility of the election process to be very important. Persons with disabilities must be equally able to exercise their democratic rights and voters that wish to do so must be enabled where possible to cast their votes independently. In the Netherlands, all Dutch citizens aged 18 and over are entitled to vote as long as they have not been disqualified

from voting by the courts. Consequently, people with physical, psychological, mental or intellectual disabilities also have full voting rights.

318. The election process is regulated in the Elections Act. This provides that the municipality (the Municipal Executive) must ensure that at least 25% of the polling stations in the municipality are located and organised in such a way that voters with physical disabilities can cast their votes independently where possible. Voters can determine at which polling station in their municipality they want to cast their votes. Voters can check on the list of addresses of polling stations (which has to be delivered to all voters' homes) which stations are accessible for voters with physical disabilities. It also provides that if it transpires, at the polling station, that a voter needs help due to their physical condition, the polling station will allow this person to be assisted.

319. In this context, the Kingdom of the Netherlands made a declaration to Article 29. 'The Kingdom of the Netherlands is fully committed to ensure the effective and full exercise by persons with disabilities of their right and opportunity to vote by secret ballot. The Kingdom recognizes the importance of persons with disabilities to have, where necessary, at their request, assistance in voting. To safeguard voting by secret ballot without intimidation, as provided for in Article 29(a)(ii), and to ensure the principle of one vote per person, the Kingdom of the Netherlands declares that it will interpret the term 'assistance' in Article 29(a)(iii) as assistance only to be effected outside the voting booth, except with regard to assistance required due to a physical disability, in which case assistance may also be permitted inside the voting booth.

320. Consequently assistance can, in principle, only be given to voters in the Netherlands outside the voting booth. Support inside the voting booth is not permitted, which also applies to voters with mental disabilities. That would, in fact, imply the risk of undesirable influencing, as a result of which there would no longer be a guarantee that the vote cast actually corresponds to the will of the voter. For that reason every voter is obliged to cast their vote independently in the voting booth. By way of an exception, the Elections Act does permit assistance in the voting booth for voters with physical disabilities because this assistance can be regarded as not jeopardising the independence of voting, but exclusively supporting the action itself (= completing the ballot paper).

321. Dutch municipalities are responsible for designating polling stations and, in recent years, worked actively on improving their accessibility. In 2012, the Ministry of Interior and Kingdom Relations commissioned the umbrella organisation of people with disabilities or chronic illnesses to formulate requirements which polling stations have to comply with in order to be characterised as accessible. These requirements are laid down in a standard checklist and relate to the aspects of general accessibility (how well can people get to the voting booth via the public road), accessibility of the premises (how well can people enter the voting booth from the public road) and usability (can people use the voting facilities in the voting booth). In every election, the Ministry of Foreign Affairs carries out random checks in polling stations to determine whether the polling stations designated by the municipality as being accessible also actually fulfil the requirements. In 2017, a detailed accessibility study of polling stations on the basis of an objective inspection generated a score of 8.2 on a ten-point scale. A contribution by the target group was secured via participation in the advisory group by Ieder(in), the umbrella organisation for people with disabilities and chronic illnesses.

322. Many municipalities are also taking extra measures to assist people with disabilities (such as free taxi services, mobile polling stations or extra people at the polling station to provide support).

323. The Minister of the Interior and Kingdom Relations has announced the following measures, also on behalf of the Minister of Health, Welfare and Sport, with a view to further improving accessibility of the election process for voters with disabilities:

- On 1 January 2019, a legislative amendment to the bill executing the Convention will enter into force, as accepted by the House of Representatives by an amendment, at the beginning of 2016. This amendment regulates that all polling stations must be accessible to voters with physical disabilities. The Elections Act, which currently

prescribes that at least 25% of the polling stations must be accessible for voters with physical disabilities, will be amended accordingly;

- As mentioned above, the current situation in the Netherlands is that assistance may, in principle, only be provided to voters outside the voting booth, whereby an exception is made for voters with physical disabilities (for example Parkinson's or blindness). They can be assisted by a person of their choice. In 2018, the Minister of the Interior and Kingdom Relations will assess, together with the organisations involved (Netherlands Institute for Human Rights, Dutch Electoral Council and interest groups for people with disabilities), how to make it possible for assistance to be provided to people with mental disabilities inside the voting booth. In talks with these organisations, the focus will be, among other things, on the question of whether the risk of undesirable influencing can be sufficiently reduced if assistance is only permitted by polling station members.

324. In addition, the Minister of the Interior and Kingdom Relations has already announced that accessibility of the elections for voters with visual disabilities will be further improved. In that context, municipalities are asked to make available a magnifying glass in every voting booth which can be used to enlarge and illuminate the text substantially.

325. Apart from support for voters with disabilities in terms of casting their votes (clarification on the ballot paper, etc.), it is also important that voters with disabilities are sufficiently informed of the political choices available during elections. Sufficient and adequate information on the voting process and the corresponding procedures is therefore important. Providing information on substantive issues discussed during elections is a task for, inter alia, interest groups and other social organisations and political parties.

### **Accessibility of political positions**

326. In response to the ratification of the Convention, the House of Representatives adopted a motion which emphasised that people with disabilities must be able to contribute to democracy in the same way as others. For this to be possible, the correct preconditions need to be created. In the motion, the Minister of the Interior and Kingdom Relations was asked to assess the extent to which people with disabilities have a representative or official position, what the barriers to such positions are and what measures need to be taken to remove barriers to active participation in democracy.

327. An assessment is made of barriers experienced by (prospective) political officeholders with structural, functional disabilities when accepting and holding a political office (members of parliament and administrators). In order to assess these barriers, political officials with structural, functional disabilities are interviewed, as well as representatives from various relevant organisations that represent the interests of people with disabilities. An attempt is also being made to interview potential officeholders with structural, functional disabilities.

328. The assessment has to lead to a report being submitted to the House of Representatives detailing measures to remove the barriers identified. The Minister intends to send the report to the House of Representatives at the end of 2018.

329. Incidentally it is possible, on the basis of the regulations which also apply to (government) employees, for political officeholders with structural, functional disabilities to obtain funding for specific provisions (for example transport-related provisions, such as an adaptation to a car or a workplace).

### **Participation**

330. The Social Support Act 2015 prescribes that municipalities must record in their bylaws how they involve citizens in the policy making process. With this, the legislator wanted to lay down the interests of citizen and client participation, without prescribing the way in which this participation should be structured. Most municipalities structure this via a broad-based advisory council for the social domain. The members of these councils are volunteers who advise the municipal executive on request or voluntarily.



331. The state finances a national organisation – the Umbrella Organisation of Advisory Councils for the Social Domain – which supports local advisory councils with substantive information, network creation and advice, for example on how the advisory councils can be set up to represent society as widely as possible. Partly as a result of the ratification of the Convention, the Umbrella Organisation carried out its activities to encourage its members can become more inclusive, in other words to include the views of people with disabilities or experts by experience in their council.

332. In addition to the formal advisory councils, there are, of course, numerous ways to involve citizens in a more or less structured form. These include ad-hoc consultations among users of medical devices, structural care recipient meetings or Internet consultations.

333. Permanent efforts are required by the advisory councils and the municipal executives in order to find forms of policy participation which not only involve, but also appeal to the target group of experts by experience. Municipalities are responsible for supporting organisations that are active locally. Via a general subsidy framework, the state subsidises nationally operating patient and disabled persons organisations for essential tasks such as protecting the interests of people suffering from specific disorders.

## **Article 30**

### **Participation in cultural life, recreation, leisure and sports**

#### **Accessibility of culture and cultural participation**

334. The Dutch government's culture policy is based on inclusivity. Physical, mental, intellectual or sensory disabilities should not present a barrier to attending and engaging in cultural events. The recognition of the right of persons with disabilities to participate on an equal basis in cultural life is expressed in various policy documents issued by the Minister of Education, Culture and Science, most recently in a document entitled 'Culture in an Open Society' (March 2018) which once again confirms that culture is by and for everyone.

335. In addition, knowledge sharing and funding of actual projects is used to promote the accessibility of culture for and cultural participation by people with disabilities. For example, the National Centre of Expertise for Cultural Education and Amateur Arts published a document entitled 'Practising art by people with disabilities' which intends to inspire art professionals with possibilities and ideas about people with disabilities practising art and organised meetings about cultural participation by specific target groups, including people with disabilities. Information on studies, organisations and projects in this field are also available on their website.

336. The Centre receives a grant for its activities from the Ministry of Education, Culture and Science. The Cultural Participation Fund financed by the national government provides project grants to support active participation in culture in general, i.e. also cultural participation by people with disabilities, and studies how cultural participation by vulnerable groups, including people with disabilities, can be further promoted.

337. With regard to accessibility of (places where) culture (is presented) a large number of initiatives have also been taken by the (subsidised) sector. The sector organisations for museums (Museums Association) and theatres and concert halls (Association of Theatre and Concert Hall Boards) advise their members about accessibility.

338. The Ministry of Education, Culture and Science is currently engaged in discussions with cultural organisations and interest groups about accessibility of culture for people with disabilities in order to assess which additional steps are the most urgent ones.

#### **Copyright restriction**

339. Article 15 of the Copyright Act provides for a copyright restriction for persons with visual or auditory disabilities, provided a fair payment is made. The Copyright Act includes an exception to the obligation of asking for a fair payment for lending books in adapted form to persons with visual disabilities. Although, in practice, this article is the most relevant in terms of making books accessible to people with reading disabilities (see also

Article 21), it guarantees that all copyright-protected cultural expressions can be made accessible to people with visual or auditory disabilities.

### **Accessibility of sports and participation in sports**

340. The Dutch government's starting point is that anyone who so wishes must be able to engage in sports and exercising, wherever possible in his/her own neighbourhood.

341. All national sports clubs encourage their affiliated associations to pursue a policy so that people with and without disabilities can engage in sports together (but not necessarily in one team). The government encourages sports clubs that focus specifically on people with disabilities to be affiliated to the national sports federations in order to improve the quality of the sports on offer.

342. A number of sports which focus specifically on people with disabilities and for which it is not (yet) possible to become affiliated to a national sports federation (such as para ice hockey, wheelchair rugby and blind football) are members of the Dutch Disabled Sports Foundation.

343. The elite sports programmes of the national sports federations with paralympic branches of sport are accessible to sportsmen and sportswomen with disabilities.

344. The 'Active without Borders' programme is intended to expand, strengthen and make it easy to find adaptive sports locally and to match supply and demand more easily. A large number of sports can be found via the 'Everything about Sports' and 'Unique Sports' sites.

345. The availability of suitable transport (to and from the sports facility) and of sports resources are important preconditions for participating in sports and exercising. There are transport arrangements in place in the Netherlands for sportsmen and sportswomen with disabilities who engage in team sports. These arrangements were evaluated in 2017 and were found to adequately meet the needs of the specific target group, albeit that the current target group is fairly limited. The Minister of Health, Welfare and Sport explores the possibilities of supporting a wider group. In 2017, a study was conducted into the availability of sports resources. It revealed that there are major differences at national level in terms of the provision of such resources by local government (the extent to which and the way in which they are provided and the level of awareness of the option of acquiring them). The Ministry of Health, Welfare and Sport has identified the problems relating to these themes and currently assesses possible solutions.

346. The 'Sport and Exercise in the Neighbourhood' programme is intended to make it possible for every Dutch person to participate safely in sports and exercising in their own neighbourhoods. Neighbourhood sports coaches are made available more and more frequently for people with disabilities (65%). In 2018, project applications within the Sport Impulse framework focus specifically on vulnerable groups, including people with disabilities.

## **Article 31 Statistics and data collection**

347. Various knowledge institutions collect data which (also) relates to people with disabilities. Some of the institutions in question fall under the responsibility of the national government, while others are private parties. Where necessary and possible, the information obtained is used to implement the Convention.

348. The institution's working methods differ, so no clear answer can be given to the question of how people with disabilities are involved themselves. One example of this in practice is the NIVEL research institute that uses panels from the target group to which a certain study relates. For example, they have set up a National Panel for Chronically Ill and Disabled People consisting of over 3,500 people with chronic somatic illnesses and/or medium to serious sensory or motor disabilities. Cohort studies are also being carried out which involve monitoring a group of people over a long period of time to assess their

development in terms of health and participation via periodic interviews. For a number of studies, client organisations are part of the supervisory or advisory group.

349. With regard to accessibility of data for people with disabilities it is relevant that the institutions that fall under the responsibility of the national government observe the European web guidelines; this is a set of rules that safeguard the quality and usability of government websites and services. Rules have also been drawn up on accessibility of the website. Not all organisations have implemented these web guidelines as yet. In 2018, those organisations were reminded of this obligation.

350. All publicly financed studies done by private research institutions have been made public. Various knowledge institutions are entrusted with making the data available accessible and distributing it to parties in the field, including client organisations and interested citizens.

351. The government uses various statistics and studies to monitor and evaluate the measures for supporting people with occupational disabilities in finding and retaining jobs. The Employee Insurance Agency (a Dutch government institution responsible for administering employee insurance policies, including insurance for young incapacitated people) and Statistics Netherlands monitor, among other things, the following:

- How many and which provisions are issued to people with occupational disabilities;
- How many persons with occupational disabilities are in work (sheltered or with a regular employer);
- Whether the agreed targets in the Occupational Disability Act are being attained (see also Article 27).

352. Studies are also carried out once every two years to assess the experiences of all parties involved in the Participation Act (providers, clients and employers). The final evaluation of the Participation Act will be published in 2019 and will contain details on various studies and statistics.

353. The information based on these statistics, monitoring data and studies will be sent to the House of Representatives and will be made accessible to a wide audience. The interest groups for people with occupational disabilities distribute this information actively among their members.

354. No separate data is kept on pupils with disabilities in the field of education. The only information available is the number of pupils who attend special education.

355. The ‘Unlimited participation’ implementation programme will also be monitored. In the process, attention will be paid to, among other things, the question of whether people with disabilities experience that they can participate in society in accordance with their wishes and capacity.

## **Article 32**

### **International cooperation**

356. Combating major inequality and exclusion is a key element of the Dutch policy for Foreign Trade and Development Cooperation. People with disabilities therefore also benefit from Dutch initiatives in the context of this policy. In programmes aimed at various marginalised, excluded and discriminated groups, within which work is also (but not exclusively) done for and with people with disabilities, interventions generally have an impact on accessibility of services and the possibility of having a say. The universality of human rights constitutes a basic principle for all Dutch efforts in this line of work – financial, diplomatic and international negotiations.

357. In 25 ‘Agreement and Dissent’ strategic partnerships by the Ministry of Foreign Affairs, local organisations are being strengthened to enable them to call their governments or companies to account in terms of implementing an inclusive policy. The members of the 25 partnerships have had to demonstrate that combating exclusion is a key element of their activities. The context analysis for all strategic partnerships contains a gender paragraph

and an inclusivity analysis. The programmes aimed at participation by people with disabilities support organisations by and for people with disabilities. Programmes also have a ‘linking and learning component’, where experience and knowledge are shared, including with other similar programmes.

358. The Ministry of Foreign Affairs invests in various programmes. In the Sexual and Reproductive Health and Rights Partnership Fund 2016–2020, for example, EUR 43 million per year is spent on programmes aimed at young people and rights groups who have been deprived of those rights. EUR 50 million has also been invested in the VOICE inclusivity fund. The aim is to boost the capacity of marginalised groups in order to encourage their governments to focus more on inclusive development. The VOICE fund focuses on five groups of the most marginalised and discriminated people, including people with disabilities, and its activities are implemented in ten countries.

359. Various programmes focus on reinforcing the capacity of social organisations which represent the rights of, among others, people with disabilities so that they can make their voices heard and influence governments. By doing so the aim is to bring about a structural change in, for example, legislation. A willingness to change on the part of decision-makers in developing countries themselves is necessary for a successful approach to combat inequality and exclusion. Dutch embassies regularly discuss the issue of how the poorest and most underperforming groups can benefit optimally from economic progress, with specific attention being paid to people with disabilities.

### **Article 33**

#### **National implementation and monitoring**

360. The Ministry of Health, Welfare and Sport has been designated as the government contact for the Netherlands for matters relating to the execution of the Convention. This ministry is responsible for the policy relating to equal treatment of persons with disabilities or chronic illnesses. This Ministry also chairs the administrative consultation committee for the Convention in which, for example, the Association of Dutch Municipalities, employers’ federation VNO-NCW, Royal Association MKB-Nederland and national organisations representing people with disabilities are also represented. This administrative consultation committee advises on measures for further implementation of the Convention, provides information and facilitates implementation of the Convention wherever possible.

361. The independent body that intends to promote, protect and monitor execution of the Convention is the Netherlands Institute for Human Rights. This body is a regulator established by law that monitors compliance with human rights in the Netherlands and has existed since 2012. It is independent and was set up in accordance with the ‘Paris Principles’.

362. It has set itself the goal of protecting human rights in the Netherlands, increasing awareness of and promoting respect for these rights. It does this, for example, by carrying out studies, by reporting on the human rights situation in the Netherlands, by cooperating systematically with social organisations and with national, European and other international bodies involved in protecting one or more human rights and by urging:

- The ratification, implementation and fulfilment of human rights conventions and the removal of reservations in relation to such conventions;
- The implementation and observance of binding resolutions of international organisations on human rights; and
- The observance of European or international recommendations on human rights.

363. With the exception of assessing equal treatment, the institute performs its tasks on Bonaire, Sint Eustatius and Saba, and in the European part of the Netherlands.