



# Convention on the Rights of the Child

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## Committee on the Rights of the Child

### Concluding observations on the report submitted by the Netherlands under article 8 (1) of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict\*

1. The Committee considered the initial report of the Netherlands (CRC/C/OPAC/NLD/1) at its 2005th meeting (see CRC/C/SR.2005), held on 27 May 2015, and adopted the following concluding observations at its 2024th meeting (see CRC/C/SR.2024), held on 5 June 2015.

#### I. Introduction

2. The Committee welcomes the submission of the State party's initial report and its written replies to the list of issues (CRC/C/OPAC/NLD/Q/1/Add.1). The Committee expresses its appreciation for the constructive dialogue held with the high-level multisectoral delegation of the State party.

3. The Committee reminds the State party that the present concluding observations should be read in conjunction with the concluding observations on the State party's fourth periodic report under the Convention on the Rights of the Child (CRC/C/NLD/CO/4), adopted on 5 June 2015.

#### II. General observations

##### Positive aspects

4. The Committee welcomes the accession or ratification by the State party of the following:

- (a) Convention on Cluster Munitions, in February 2011;
- (b) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime, in February 2005;

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\* Adopted by the Committee at its sixty-ninth session (18 May–5 June 2015).



(c) Rome Statute of the International Criminal Court, in July 2001;

(d) Geneva Conventions relating to the protection of victims of international armed conflicts, in August 1954, and the Additional Protocols I and II to the 1949 Geneva Conventions, in June 1987.

5. The Committee welcomes the various positive measures taken in areas relevant to the implementation of the Optional Protocol, in particular:

(a) The State party's declaration made upon the ratification of the Optional Protocol that the minimum age for conscription for military service and entering into a contract to perform military service is 18 years;

(b) Amendments to the Military Personnel Act of 1931, establishing 18 as the minimum age for joining the armed forces, in 2009.

### III. General measures of implementation

#### Dissemination, awareness-raising and training

6. The Committee notes that awareness-raising activities on the Optional Protocol are carried out mostly by non-governmental organizations and regrets that there are no systematic awareness-raising activities on the Protocol carried out by the State party. It also regrets that, as stated by the State party, there are no training courses on the Protocol (see CRC/C/OPAC/NLD/Q/1/Add.1, para. 4).

**7. The Committee recommends that the State party take all the measures necessary to enhance the knowledge of its armed forces, peacekeepers and all other relevant professional groups, including the police, immigration officials, judges, lawyers, medical and social workers and teachers, on the provisions of the Optional Protocol and that it conduct regular awareness-raising activities among children themselves and the public in general.**

#### Data

8. The Committee is concerned about the lack of data on asylum-seeking, refugee and migrant children who enter the State party and may have been recruited or used in hostilities abroad.

**9. The Committee recommends that the State party establish a mechanism for the comprehensive collection of data, disaggregated by sex, age, nationality and ethnic origin, for asylum-seeking, refugee and migrant children who enter the State party and may have been recruited or used in hostilities abroad.**

### IV. Prevention

#### Voluntary recruitment

10. The Committee notes that the State party's legislation allows voluntary recruitment of persons at the age of 17 years as aspiring military officers. It is concerned, however, that such aspiring military officers are trained in the use of firearms with live ammunition and are subjected to military discipline and military criminal law.

**11. The Committee recommends that the State party prohibit the current practice of training aspiring military officers at the age of 17 years in the use of firearms and ensure that they are not subjected to military discipline and military criminal law. The Committee encourages the State party to review and raise the minimum age of**

**voluntary recruitment to 18 years in order to promote and strengthen the protection of all children.**

#### **Military courses**

12. The Committee is concerned that children as young as 15 years of age who are enrolled in the “security and skills” vocational course are subjected to harsh mental and physical training modules that may be harmful to their health and development.

**13. The Committee recommends that the State party take all the measures necessary to ensure that the “security and skills” course does not include mental and physical training modules that are harmful to the health and development of children and that it monitor such courses regularly to ensure that the curriculum and the teaching personnel comply with the Optional Protocol.**

## **V. Prohibition and related matters**

#### **Criminalization of recruitment by non-State armed groups**

14. The Committee notes that the Criminal Codes of the State party’s constituencies prohibit recruiting volunteers to serve in the armed forces of a foreign State or to take part in an armed conflict. It is concerned, however, that such criminalization is not explicit with regard to the recruitment of children under the age of 18 years by non-State armed groups. The Committee also notes that the draft bill introduced by the Minister of Security can revoke the Dutch nationality of persons, including children, who have been involved with a terrorist organization and that the Ministry is currently working on introducing exceptions to the draft bill.

**15. The Committee recommends that the State party introduce amendments to the criminal legislation of its constituencies in order to ensure explicit criminalization of recruitment of children under the age of 18 years by non-State armed groups. It also recommends that the State party ensure that its bill revoking the Dutch nationality of persons involved with a terrorist organization does not apply to children below the age of 18 years under any circumstances, even in cases where a child has double nationality, owing to the negative consequences that statelessness or losing one’s nationality can cause to children.**

#### **Extraterritorial jurisdiction**

16. The Committee welcomes the State party’s International Crimes Act, which recognizes as a war crime the drafting into service, or use for active participation in hostilities, of children under 15 years of age by the armed forces and armed groups and that under the same act the State party can exercise extraterritorial jurisdiction to prosecute any person who commits war crimes, crimes against humanity and genocide. The Committee is concerned, however, about the absence of a provision in the State party’s legislation that extends the extraterritorial jurisdiction to prosecute persons who violate the provisions of the Optional Protocol against children between 15 and 18 years of age.

**17. The Committee recommends that the State party establish extraterritorial jurisdiction over acts prohibited under the Optional Protocol, including the conscription or enlistment of children below the age of 18 years into the armed forces or armed groups, or their use in hostilities, if such crimes are committed by or against a national of the State party or a person who has his or her habitual residence in the State party.**

## **VI. Protection, recovery and reintegration**

### **Measures adopted to protect the rights of child victims**

18. The Committee notes that children below the age of 15 years are exempted from article 1 F of the 1951 Convention relating to the Status of Refugees, which excludes protection for those who commit a crime against peace, a war crime or a crime against humanity. It is seriously concerned, however, that such exemption does not extend to all children below the age of 18 years.

19. **The Committee strongly recommends that the State party amend its legislation regarding the exemption from article 1 F of the 1951 Convention relating to the Status of Refugees without delay and extend the protection provided under that Convention to all children between 15 and 18 years of age irrespective of the crimes committed.**

### **Assistance for physical and psychological recovery and social reintegration**

20. The Committee is concerned that the State party's mental health service providers do not have sufficient expertise in dealing with children who have been victims of armed conflict.

21. **The Committee recommends that the State party take measures to strengthen its services in order to provide children coming from conflict-affected areas abroad with appropriate services for their psychological and physical recovery and their integration into society.**

## **VII. International assistance and cooperation**

### **International cooperation**

22. **The Committee recommends that the State party continue and strengthen its cooperation with the International Committee of the Red Cross and with the Special Representative of the Secretary-General for Children and Armed Conflict, and that it explore increased cooperation with the United Nations Children's Fund and other United Nations entities in the implementation of the Optional Protocol.**

### **Arms export and military assistance**

23. The Committee notes that the State party is a large exporter of arms, including small arms and light weapons, and that all export application licences are assessed on a case-by-case basis in the light of the European common position concerning arms export control. The Committee is, however, concerned that the State party does not have its own policy or regulation that specifically prohibits the export of arms to countries where children are known to be, or may potentially be, recruited or used in armed conflict and hostilities.

24. **The Committee recommends that the State party introduce a ban on the export of arms to countries where children are known to be, or may potentially be, recruited or used in armed conflict and hostilities. It also recommends that the State party ratify the Arms Trade Treaty, which it signed in 2013.**

## **VIII. Follow-up and dissemination**

25. **The Committee recommends that the State party take all the appropriate measures to ensure the full implementation of the present recommendations by, inter alia, transmitting them to the Parliament, relevant ministries, including the Ministry**

of Defence, the Supreme Court and local authorities, for appropriate consideration and further action.

26. The Committee recommends that the initial report and written replies submitted by the State party and the related concluding observations adopted by the Committee be made widely available, including through the Internet, to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Optional Protocol, its implementation and monitoring.

## **IX. Next report**

27. In accordance with article 8 (2) of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol and the present concluding observations in its next periodic report, to be submitted in accordance with article 44 of the Convention.

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