



NGO submission for the 87<sup>th</sup> session of the Pre-Sessional Working Group of  
Committee on the Rights of the Child

List of Issues Prior to Reporting for the Netherlands

Joint NGO submission by:

NNID - Netherlands organisation for sex diversity

COC Nederland

TNN – Transgender Netwerk Nederland

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## Introduction

COC Nederland, NNID, and TNN have taken note of the procedure to provide a submission to the List of Issues Prior to Reporting (LOIPR) as part of the periodic review of the Netherlands by the Committee on the Rights of the Child (CRC). This submission highlights key issues in the domain of sexual, gender and sex diversity, with a focus on emerging trends in LGBTI equality. The different paragraphs give contextual information on general issues, trends that specifically affect intersex children, and transgender specific issues. The questions formulated at the end of each paragraph can be used as input for the preparation of the LOIPR.

COC is the largest Dutch LGBTI organization in the Netherlands, TNN (Transgender Netwerk Nederland) works on the acceptance of gender diversity and the equality of transgender persons, and NNID Foundation is an intersex-led human rights organization working for the equality, rights, and visibility of intersex people, and is based in the Netherlands. The three organizations are part of an alliance funded by the Dutch Ministry of Education, Culture, and Science (Ministerie van OCW)<sup>1</sup>.

Although the Netherlands is still considered as a model country ('gidsland') in LGBTI equality, it has dropped in several rankings in which countries are ranked based on their policy and legislation on sexual, gender, and sex diversity<sup>2</sup>. This submission gives further insight in the situation of LGBTI children in the Netherlands, and which focus points are most important for children in the domain of sexual diversity, gender diversity, and sex diversity.

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<sup>1</sup> J. Bussemaker (2017) Keuze partnerschappen emancipatiebeleid

<sup>2</sup> ILGA Europe (2019) Country Ranking <https://rainbow-europe.org/country-ranking>

## General trends

### Education [art. 28, art. 29]

The Netherlands deserves appreciation for their structural commitment to improving the situation of LGBTI children within the education system. The government supports and stimulates research, interventions, and projects to diminish bullying and improve the social safety of LGBTI pupils, such as the Gender and Sexuality Alliances (GSA's) in schools. The Ministry of Education monitors the wellbeing and social safety of LGB students every two years.

In 2012, the headline targets ('kerndoelen') were adjusted; schools are now required to offer education on sexual diversity<sup>3</sup>. In 2016 the Dutch Inspectorate of Education reviewed the headline targets and found that implementation still falls short. Schools and teachers are generally willing to implement the headline targets but lack knowledge, and the government does not provide clear guidelines<sup>4</sup>. The Inspectorate found that education on sexual diversity, gender diversity, and sex diversity are not part of the regular curriculum; schools did not develop a vision or concrete goals for implementing the headline targets, and schools did not keep track of results of education on sexual diversity. Although the Dutch inspectorate published a thematic report, there is no structural monitoring of the headline targets.

The 2017 coalition agreement states the government wants to clarify the headline targets.<sup>5</sup> However, the process is still ongoing, and it is unclear whether the renewed headline targets would be an improvement and offer a clear standard for schools to strive towards.

A 2018 research by Columbia University into the experiences of LGBTI youth in Dutch schools found that nearly half (47,1%) of the participating students reported that teachers and other school staff did not intervene when confronted with homophobic remarks<sup>6</sup>. Transgender children receive threats and face violence at school. With regard to intersex children at school, there is even less knowledge or capacity to act. In 2019, the Dutch parliament passed a motion proposing to make education on sexual diversity, gender diversity, and sex diversity a mandatory component in all teacher training programs. The government still has to respond to the motion.

**COC, NNID, and TNN suggest to the Committee to ask the government of the Netherlands what steps have been taken to guarantee the existence and further improvement of the headline targets for education on sexual diversity, and which steps have been taken to structurally include gender diversity, and sex diversity in the headline targets.**

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<sup>3</sup> COC Nederland (2012) *LHBT-voorlichting eindelijk verplicht*. Retrieved from <https://www.coc.nl/jong-school/lhbt-voorlichting-eindelijk-verplicht>

<sup>4</sup> Inspectie van Onderwijs (2016) *Omgaan met seksuele diversiteit*. Utrecht: Inspectie van Onderwijs.

<sup>5</sup> VVD, CDA, D66 ChristenUnie (2017) *Vertrouwen in de toekomst Regeerakkoord 2017 – 2021*

<sup>6</sup> Pizmony-Levy, O. (2018). *The 2018 Dutch National School Climate Survey Report. Research Report*. New York: Teachers College, Columbia University.

## Bullying and suicide [art. 19]

The Netherlands does not have an LGBTI inclusive anti-bullying policy, even though homophobic bullying is common in Dutch schools. The 2018 research by Columbia University also found that students experienced various forms of violence. Two out of three students were verbally abused, and the word 'homo' ('gay') is one of the most commonly used forms of verbal violence in and around schools. The study also found that one in four students was physically harassed (shoving, pushing) and 6,4% was physically assaulted (punching, kicking or injured with a weapon).

Bullying leads to physical and mental health problems, it obstructs the personal and social development of the child, leads to depression and increases the risk for children to become violent themselves<sup>7</sup>. Furthermore, feeling unsafe at school leads to absenteeism, which can negatively affect the school results of LGBTI children. The Committee on the Rights of the Child, in General Comment 13, states that protection from violence includes protection from psychological and physical bullying. The Netherlands has the obligation to prevent violence against LGBTI children and adolescents.

**COC, NNID, and TNN suggest to the Committee to ask the government of the Netherlands which measures have been taken to decrease the number of suicidal thoughts and suicidal attempts among LGBTI children.**

## Curative therapy [art. 6]

Various people and organizations in the Netherlands offer treatments with the aim to 'cure homosexuality'<sup>8</sup>. Such treatments are unscientific, unethical, and a form of psychological violence. In May 2019 Dutch parliament passed a resolution asking the government to ban conversion therapy, with special attention for LGBTI children.

**COC, NNID, and TNN suggest to the Committee to ask the government of the Netherlands which steps have been taken to investigate and ban conversion therapies to prevent that LGBTI children are subjected to treatment aimed at 'curing' their sexual orientation, gender identity or sex characteristics.**

## Legal gender recognition [art. 3, art. 8]

As of 2014, citizens from age 16 onwards can access legal gender recognition through an administrative procedure<sup>9</sup>. The only requirement is an expert letter from a physician or psychologist with an expertise in gender dysphoria. The current legislation on legal gender recognition is under review by the Department of Justice and Safety. In response to the review, the Dutch government has proposed to make legal gender recognition available to children under the age of 16, which is only possible for intersex children under the existing

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<sup>7</sup> Van Rossenberg, S. (2014). *LHBTI-kinderen in Nederland*. Amsterdam: COC Nederland.

<sup>8</sup> COC Nederland (2019) *COC wil verbod op homogenizing*. Retrieved from <https://www.coc.nl/geloof-cultuur/coc-wil-verbod-op-homogenizing>

<sup>9</sup> Ministerie van Veiligheid en Justitie, Informatieblad: Wet wijziging vermelding van het geslacht in de geboortakte (transgenderwet) 2017

law. The expert letter will no longer be necessary for people older than the age of 16, but children under the age of 16 have to get approval of a judge for their legal gender recognition.

With regard to the current legislation the proposal is an improvement, but it is not equal to facilitating legal gender recognition to children under the age of 16 in a quick, transparent and accessible procedure, nor respectful of free and informed choice, as is called for by among others the Committee for the Rights of the Child in the 2017 Joint Statement<sup>10</sup>.

**TNN, NNID, and COC suggest to the Committee to ask the government of the Netherlands how the proposed policy can help to find the right support, i.e. a fast, transparent and accessible procedure based on respect for the free, informed choice, to confirm the gender of a child as part of their identity, when the lived gender of the child does not correspond to the assigned gender at birth.**

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<sup>10</sup> **Experts of CRC, CAT, independent experts, IACHR, ACHPR, and the Commissioner for Human Rights (2017)**  
*Embrace diversity and protect trans and gender diverse children and adolescents*

## Intersex

### Harmful practices [art. 12, art. 17, art. 19, art. 24]

Intersex children are highly medicalized, even before their birth, while there is only very limited information available on the results of these interventions, there even are proven negative consequences.<sup>11</sup> The medical interventions on intersex children are based on *'predict and control'*: when an intersex child is born, health professionals try to predict the future gender of the child and control the outcome of this prediction by means of medically unnecessary and irreversible surgery, hormone treatments, other normalizing treatments and psychological support, without the free and fully informed consent of the child<sup>12</sup>. The *'predict and control'* method is a violation of the right of self-determination, bodily integrity, and the right to the highest attainable standard of physical and mental health. This standard is not guaranteed for intersex children, because they are victim of unnecessary, unproven and unscientific medical treatments.

Several international institutions have urged for governmental action against Intersex Genital Mutilation (IGM) and have called for action to prohibit unnecessary medical treatments of intersex children. In 2013, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment called on states to repeal any law allowing intrusive and irreversible treatments, including forced genital-normalizing surgery, involuntary sterilization, "reparative therapies" or "conversion therapies", when enforced or administered without the free and informed consent of the person concerned. He also called upon them to outlaw forced or coerced sterilization in all circumstances.<sup>13</sup> In 2018, The Committee against Torture (CaT) called upon the Dutch government to prohibit IGM and take measures to protect intersex children<sup>14</sup>. However, the Dutch government explicitly rejected the recommendations of CaT, and denies their responsibility to guarantee high

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<sup>11</sup>**Dreger A, Feder EK, Tamar-Mattis A.** Prenatal dexamethasone for congenital adrenal hyperplasia. *Journal of bioethical inquiry.* 2012;9(3):277-294.

**Wallenstein L, Zimmermann M, Sandberg MT, Gezelius A, Nordenström A, Tatja J, et al.** Sex-dimorphic effects of prenatal treatment with dexamethasone. *Journal of Clinical Endocrinology & Metabolism.* 2016; Early release.

<sup>12</sup>**Wolffenbuttel KP.** Disorders of sex development: méér dan alleen een andere naam. *Tijdschrift voor Urologie.* 2015;5(1):8-12

**Wolffenbuttel K, Crouch NS.** Timing of feminising surgery in disorders of sex development. *Understanding Differences and Disorders of Sex Development (DSD).* 27: Karger Publishers; 2014. p. 210-221

**Claahsen-van der Grinten HL, Stikkelbroeck MML, Vulsma T.** Informatie voor de huisarts over Adrenogenitaal syndroom (AGS). In: van Breukelen CW, Goren SS, Oude Vrielink S, Woutersen-Koch H, van Veldhuizen E, redactie.: *Bijnierverseniging NVACP, Vereniging Samenwerkende Ouder- en Patiëntenorganisaties (VSOP), Nederlands Huisartsen Genootschap (NHG);* 2011

**UMC St Radboud.** Behandelteam meisjes met adrenogenitaal syndroom (AGS): Patiënteninformatie. Nijmegen, Nederland: UMC St Radboud; 2011.

**De Jong TPVM, Salvatore C.** Achterhaalde misstanden. *De Volkskrant.* 6 juni 2015, Pagina 21 Sect. Opinie en Debat, Rubriek U

<sup>13</sup>**Juan E. Medez** Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Medez, Human Rights Council, 1 February 2013 (A/HRC/22/53).

<sup>14</sup> **Committee against Torture** Netherlands: Concluding observations

standards of physical and mental health to health care professionals.<sup>15</sup> The fact that health care professionals violate the fundamental human rights of intersex children is not recognized by the Dutch government. This stance leads to further medicalization of intersex children. Possible consequences of a focus on medicalization instead of the human rights of intersex children can be severe: almost 20 percent of the adult intersex people have suicidal thoughts and 7 percent has ever tried to commit suicide<sup>16</sup> – in general, intersex people suffer from physical and mental health issues throughout their lives<sup>17</sup>.

**NNID, COC, and TNN suggest to the Committee to ask the government of the Netherlands to clarify their stance on Intersex Genital Mutilation on intersex children, and to give insight in the measurements the government has taken to guarantee the protection of intersex children according to article 19 and article 24 of the Convention of the Committee on the Rights of the Child.**

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<sup>15</sup> **B.J. Bruins** Reactie op het verzoek van het lid Özütok, gedaan tijdens de Regeling van werkzaamheden van 11 december 2018, over het bericht dat de VN-commissie Nederland op de vingers tikt op het gebied van intersekse rechten (2019)

<sup>16</sup> **De Vries ALC, Roehle R, Marshall L, Frisé L, van de Grift TC, Kreukels BPC, et al.** Mental Health of a Large Group of Adults With Disorders of Sex Development in Six European Countries. *Psychosomatic Medicine*. 2019; Publish Ahead of Print. DOI: 10.1097/psy.0000000000000718

<sup>17</sup> **Falhammar H, Claahsen-van der Grinten HL, Reisch N, Slowikowska-Hilczner J, Nordenstrom A, Roehle R, et al.** Health status in 1040 adults with disorders of sex development (DSD): a European multicenter study. *Endocrine Connections*. 2018. (<https://doi.org/10.1530/ec-18-0031>).

## Transgender

### Waiting lists & depathologisation [art. 24]

Transgender health care for minors, medical as well as mental health care, is insufficiently available in the Netherlands. The waiting time for intake to access specialized medical healthcare has risen substantially to 77 weeks<sup>18</sup>. Especially for trans and gender diverse children who are entering or have started puberty this waiting time is a burden on their mental health. Although the Dutch government participates in a process to reduce waiting lists, it is uncertain if shorter waiting times are feasible with the current plans.

Mental health support for minors is part of the decentralized youth care in the Netherlands. The decentralization causes additional problems in youth care for trans and gender diverse children, because most municipalities have not contracted specialized care. It leads to cases in which trans and gender diverse children do not have access to the appropriate health care.

A positive trend is the depathologisation of transgender identities. As of 2020, the International Classification of Diseases will no longer view transgender people (including children) as having a mental disorder because of their gender identity. Nonetheless, mental health support for trans and gender diverse children is necessary, because their mental health is subjected to stigma and abuse.<sup>19</sup> Especially for pre-pubertal trans and gender diverse children, mental health professionals play an important role in creating a supportive and accepting network and environment around the child<sup>20</sup>

**TNN, COC, and NNID suggest to the Committee to ask the government of the Netherlands which measures are taken to guarantee the highest standard of health for trans children, which also includes steps to guarantee that trans children do not get deprived from gender affirmative mental health support in case of absence of a mental health diagnosis.**

### Domestic violence & child abuse [art. 19]

Recent research on child abuse showed that transgender children experience twice as much abuse as cisgender children<sup>21</sup>. 'Safe at Home', the organization that monitors child abuse, admitted that they do not have any contact with transgender children<sup>22</sup>. This implies that the child abuse of transgender children is not reported. The difference between the research data and reported cases has to be investigated more thorough.

More awareness of domestic violence and the child abuse of trans and gender diverse children is needed. Health care professionals, teachers, and other people that have a role in

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<sup>18</sup> **Kwartiermaker Transgenderzorg** (Zorgvuldig advies), verlichting van knelpunten in de transgenderzorg, 2019

<sup>19</sup> **Sociaal en Cultureel Planbureau**, LHBT monitor, 2018

<sup>20</sup> **American Academy for Pediatricians**, policy statement: Ensuring Comprehensive Care and Support for Transgender and Gender Diverse Children and Adolescents, 2018

<sup>21</sup> **Sociaal en Cultureel Planbureau**, LHBT monitor, 2018

<sup>22</sup> *verbal information shared by 'Safe at Home', mentioned in a meeting, June 2019*

reporting child abuse, need to be more aware of the risks of child abuse and domestic violence against trans and gender diverse children.

**TNN, COC, and NNID suggest to the Committee to ask the government of the Netherlands which measures are being taken to protect trans and gender diverse children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment, including sexual abuse.**

## Summary

COC, NNID, and TNN suggest to the Committee to ask the government of the Netherlands:

- what steps have been taken to guarantee the existence and further improvement of the headline targets for education on sexual diversity, and which steps have been taken to structurally include gender diversity, and sex diversity in the headline targets.
- which measures have been taken to decrease the number of suicidal thoughts and suicidal attempts among LGBTI children.
- which steps have been taken to investigate and ban conversion therapies to prevent that LGBTI children are subjected to treatment aimed at 'curing' their sexual orientation, gender identity or sex characteristics.
- how the proposed policy can help to find the right support, i.e. a fast, transparent and accessible procedure based on respect for the free, informed choice, to confirm the gender of a child as part of their identity, when the lived gender of the child does not correspond to the assigned gender at birth.
- to clarify their stance on Intersex Genital Mutilation on intersex children, and to give insight in the measurements the government has taken to guarantee the protection of intersex children according to article 19 and article 24 of the Convention of the Committee on the Rights of the Child.
- which measures are taken to guarantee the highest standard of health for trans children, which also includes steps to guarantee that trans children do not get deprived from gender affirmative mental health support in case of absence of a mental health diagnosis.
- which measures are being taken to protect trans and gender diverse children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment, including sexual abuse.