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**Summary of recommendations for The Netherlands**  
By COC Nederland – NNID - TNN



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**Physical integrity: Violence against and ill-treatment of intersex children**

Health care for intersex children in the Netherlands is based on *'predict and control'*: health professionals try to predict the future gender of the intersex newborn and control the outcome of this prediction by means of medically unnecessary and irreversible surgeries and treatments. This is a violation of the right of self-determination of the child and of the right to the highest attainable standard of physical and mental health. It is very uncertain at the young age in which surgery is oftentimes conducted, how the gender identity of the child will develop in the future. The consequences can be severe: unnecessary surgery at young age often leads to lifelong physical and mental health issues due to the irreversible character. The *'normalizing treatment'* is a violation of CRPD art. 15 and CRC art. 24.1. The Dutch government perpetuates this situation, which clearly is in conflict with CRC art. 3.1 and 24.3. The UN Special Rapporteur on Health (A/70/213 para 112 m) and the UN Special Rapporteur on Torture (A/HRC/22/53 para 88) recommend states to end these practices. The UN Special Rapporteur on Health states that partial clitoridectomy as part of the treatment of intersex persons is a form of female genital mutilation (A/HRC/32/33 para 56). The *'normalizing'* treatment of intersex people in the Netherlands in general is a breach of CEDAW art. 1, 5 and 12, General Recommendations 14, 19 and 31. It is also a breach of CRPD article 17(A/61/611) and in disagreement with the Joint General Comment number 18 on harmful practices of the Committee on the Rights of the Child and the CEDAW.

**Recommendations:**

1. Implement effective legislative, administrative, judicial and other measures to ensure that no child or adult is subjected to unnecessary surgery or treatment without free and fully informed consent
2. Implement mechanisms to protect intersex children against experimental medical treatments

**Highest attainable standard of health: Standards of and access to gender affirmative healthcare**

The long waiting lists are paramount in Dutch transgender health care centers. Furthermore, knowledge about gender affirmative health care needs is not accessible for primary health care providers despite their wishes to help transgender patients basic needs. Not all treatments necessary to complete a gender affirmative treatment are sufficiently covered by the basic health insurance (breast reconstruction; erection prostheses, et cetera). All this results in unequal access to necessary affirmative healthcare and exacerbates social problems and resulting in drugs and alcohol abuse. Restrictive healthcare protocols prohibit transgender patients from receiving surgery or treatment to which they can freely and fully provide informed consent. The largest gender affirmative healthcare centre treats patients according to protocols which prescribe a standard path of therapies and surgeries, presumed to be applicable to all patients. The importance of the access to necessary medical treatments for transgender persons and their reimbursement by public health

insurance schemes is reiterated by the Dutch Human Rights Commission and the Human Rights Commissioner of the Council of Europe. Pathologization confronts trans and intersex people with the widespread idea that they are suffering from mental and psychological issues.

**Recommendations:**

3. Guarantee equal access to basic gender affirmative health care through primary health care providers and reimbursement of all aspects of gender affirmative health care
4. Abolish the diagnosis genderdysphoria for prepubertal children and implement further mechanisms to depathologize transgender people's gender affirmative health care needs

**Discrimination: lack of self-determination in legal gender recognition procedures**

In the Netherlands, the right of self-determination is not protected in the gender recognition law since the freedom to determine one's gender is not fully respected. Transgender people under the age of 16 have no access to legal gender recognition. Intersex persons still need a judicial approval and transgender people aged 16 and older need an expert letter from a doctor or psychologist to get access to legal gender recognition. Furthermore, the Dutch legal gender recognition procedures fail to provide recognition for non-binary trans and intersex people. The only legal options are 'male' and 'female'. The Human Rights Committee has expressed concern regarding lack of arrangements for granting legal recognition of transgender people's identities. It has urged states to recognize the right of transgender persons to change their gender by permitting the issuance of new birth certificates and has noted with approval legislation facilitating legal recognition of a change of gender.

**Recommendations:**

5. Guarantee access to legal gender recognition for both intersex and transgender children and adults, without obstacles infringing the individual's right to self-determination (i.e. expert letter or lawsuit) and financial barriers
6. Enable every individual to alter the gender as registered at the civil registry to undetermined or unregistered
7. Enable parents of a new-born not to assign a gender at birth, to guarantee self-determination of the child at a later age
8. Remove gender markers from ID documents

**Violence based on SOGIESC: Combatting hate crimes**

About seven in ten LGBTI (lesbian, gay, bisexual, transgender and intersex) persons in The Netherlands experience discriminatory physical or verbal violence because of their identity, but only in very few cases this results in prosecution and/or conviction of the perpetrators. In 2013 a total of 88 cases of (all kinds of) discrimination were prosecuted by the public prosecutor, resulting in 64 convictions. Of those about 14 percent was for discrimination on grounds of sexual orientation or identity. Thus, whereas hundreds of thousands LGBTI persons in The Netherlands experience hate crimes and discrimination, only about 10 perpetrators are convicted each year. In its Security Agenda 2015-2018 the minister of Justice and Security has named the countering of 'homophobic violence' as one of its priorities. However, there is no specific action program to implement this priority and there are no indicators for success.

**Recommendations:**

9. Optimize law, policy and practice to lower hate crime rates and promote a higher percentage of perpetrators being prosecuted and convicted
10. Issue an action program for countering hate crime against LGBTI, including indicators for success
11. Make an agreement with police and public prosecutor to increase the number of perpetrators that are prosecuted for hate crimes against LGBTI