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**The Dutch NGO-report 2014 on the implementation of the  
Optional Protocol to the UN Convention on the Rights of the Child on the  
involvement of children in Armed Conflict (OPAC)**

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## Foreword

The Netherlands has ratified and is therefore bound by the provisions of the Optional Protocol to the UN Convention on the Rights of the Child on the involvement of Children in Armed Conflict (hereinafter: OPAC). Two years after ratification, in December 2011, the Netherlands has submitted its Initial Report on OPAC with an overview of measures undertaken.

Several months before the Netherlands government meets the UN Committee regarding the Initial Report, non-governmental organizations (NGOs) are given the chance to express their opinion to the UN Committee on what can be improved. Prior to this meeting, a report must be submitted with information and recommendations for a better implementation of and compliance with OPAC: the NGO-report.

This is the Dutch NGO-report on the implementation of OPAC. The report reviews the situation of children in the territory of the Kingdom of The Netherlands (hereinafter: the Netherlands) in Europe and contains observations and recommendations for improvement.

The responsibility for the report lies with War Child and the Dutch NGO Coalition for Children's Rights' coalition members, namely UNICEF Netherlands, Defence for Children Netherlands, Stichting Kinderpostzegels Nederland, NJR, Augeo Foundation, Bernard van Leer Foundation, Ieder(In) and Terre des Hommes (hereinafter: the Coalition).

The Coalition has used data and information from multiple sources, including recent studies, reports and governmental- and non-governmental information.

Besides the desk research, the Coalition also interviewed students, teachers in military educational programs in the Netherlands, a retired military general and the Chef-staff of Inspector General of Military Forces. Their experiences are anonymously included in this research.

Aloys van Rest  
Chair of the NGO Coalition for Children's Rights

## Introduction

The Dutch NGO Coalition for Children's Rights (hereinafter: the Coalition) has made a more detailed description, including recommendations for improvement, on several topics regarding the measures undertaken by the government to prevent children from getting involved in (the consequences of) armed conflict.

### *Military education*

Persons under eighteen years of age in The Netherlands do not directly take part in hostilities, nor can they be part of the Dutch Armed Forces. They can however follow an educational military course which will prepare them for a possible future position in the Armed Forces.

The Coalition has concerns regarding these military educational programs that provide educational courses for minors aged fifteen and older.

More information can be found in Chapter II.

### *Recruitment by armed groups*

There are indications that minors are being recruited for armed conflicts or terrorist activities in Syria. According to article 4 OPAC, the Dutch government shall take all feasible measures to prevent such recruitment and prohibit and criminalize such practices. Recommendations of the Coalition on these measures but also on the policy will be described in more detail in Chapter III.

### *Protection of victims*

Signaling and identifying victims of armed conflicts remains difficult. Recommendations on identifying victims, on the protection of former child soldiers and recommendations on the protection of children in captivity can be found in Chapter IV.

### *Overview of current missions*

At the time of writing, the Netherlands was participating in missions in Mali, Afghanistan, Somalia, Turkey and South Sudan. The Dutch Armed Forces were also active in smaller missions in Europe (Bosnia- Herzegovina and Kosovo), Africa (Rwanda, Burundi, Uganda, Somalia and the Central African Republic) and the Middle East (Lebanon, Syria, Israel, Egypt, Bahrain and the Gaza Strip) (Ministry of Defense, *Ministerie van Defensie*, 2013).

The Ministry of Defense currently employs more than 60,000 people, including nearly 18,000 civilians and over 43,000 military personnel.

## I. General Implementation measures

The Optional Protocol to the UN Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (hereinafter Optional Protocol or OPAC) entered into force on 24 October 2009 for the entire Kingdom of the Netherlands.

### *Training and awareness of the UN Convention on the Rights of the Child and the Optional Protocol*

In the Netherlands, the awareness of the Optional Protocol is largely confined to specialists and NGO's active in the field of children's rights.

Instructions about the rights of children are currently only part of the standard curriculum of officers and non-commissioned officers (State report, p. 8).

For better protection of children who are involved or at risk of becoming involved in armed conflicts, it is important that the provisions of the UN Convention on the Rights of the Child (hereinafter CRC) and the Optional Protocol are included in military training programs for all military personnel. In addition, a wider public should also be made aware of the provisions of the UN Convention and its Optional Protocols. This must be done in a comprehensive manner and in child-friendly language.

#### **Recommendation**

> Include teaching on the Convention on the Rights of the Child and its Optional Protocols in military training programs for all military personnel.

### *Binding declaration of the Netherlands*

Upon ratification of the Protocol, the Netherlands made the following binding declaration:

'On the occasion of the deposit of the instrument of ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (New York, 25 May 2000) by the Kingdom of the Netherlands, and in accordance with Article 3, paragraph 2, of the Protocol, the Government of the Kingdom of the Netherlands declares that the minimum age at which the legislation in the Netherlands permits voluntary recruitment into its national Armed Forces for both soldiers and commissioned or non-commissioned officers, remains eighteen years. However, persons that have reached the age of seventeen years, may on a strictly voluntary basis be recruited as military personnel in probation.'

## II. Prevention

### Conscription

In May 1997 the government decided to suspend the duty to report for military service by introducing voluntary serving personnel. This suspension meant that male citizens between 17 and 45 years of age no longer have to perform military service once the security situation does not require that.

Since that moment, the Dutch army thus consists entirely out of professional soldiers. However, upon turning seventeen years of age, every male citizen receives a letter stating that he is registered but not obliged to fulfill military service.

The Framework Act military service (Kaderwet dienstplicht) allows the possibility to reintroduce the duty to report for military service in times of war or other emergencies and possible compulsory recruitment of all conscripts (*Stb.* 1997, 139). The government underlines that in the hypothetical situation that the Netherlands were to revoke the suspension of the duty to report, no conscript under the age of eighteen would be called up for active military service (State report, p. 9).

The Dutch NGO coalition for children's rights wonders why, when there is this assurance that they will not be called up for active military service when younger than eighteen years of age, seventeen-year-olds nonetheless receive a letter at the age of seventeen stating that they are registered and the duty to report for military service can be reinstated.

### Military education

The Preamble of the Optional Protocol states that "The rights of children require special protection" and therefore calls for "their development and education in conditions of peace and security". Article 28 paragraph 2 of the CRC decides that "State Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention". Article 29 adds that the education of the child "shall be directed to the development of the child's personality, talents and mental and physical abilities (...)".

The Dutch NGO Coalition for Children's Rights has concerns regarding military educational programs that provide educational courses for minors of age 15 and older. Although the Coalition certainly also sees the benefits of such educational courses, questions arise whether certain training procedures are appropriate for children. Concerns apply specifically to the mental and physical training modules, the apparent lack of guidelines for teachers and instructors, and the lack of monitoring of the internships.

An explanation of the military educational programs and a set of recommendations to improve this situation, is described below.



### *Educational programs*

Persons under eighteen years in the Netherlands cannot take direct part in hostilities, nor can they be part of the Dutch Armed Forces. They can however follow an educational military course which will prepare them for a possible future position within the Armed Forces. The three most common military educational courses, which will be described in more detail below, are the following:

- a. **General Military Course** (*Algemene Militaire Opleiding, AMO*), according to the website of the government, accessible for persons from the age of 16 years and 9 months;
- b. **General Military Airmobile Course** (*Algemene Militaire Opleiding Luchtmobiel, AMOL*), according to the website of the government, accessible for persons from the age of 16 years and 6 months;
- c. **Security and Craftmanship vocational course** (*Veiligheid en Vakmanschap, VeVa*), accessible for persons from the age of 15 years and 6 months.

Of the following military education courses only little information is known:

- d. **Military Education for submarine sailors**  
Accessible for persons from the age of 16 years and 6 months.
- e. **Brugjaar Koninklijke Marechaussee**  
Accessible for persons from the age of 16 years.
- f. **First Maritime Military Education**  
Accessible for persons from the age of 16 years and 6 months.

- a. **General Military Course (AMO) and the**
- b. **General Military Airmobile Course (AMOL)**

The Military Personnel Act from 1931 (*Militaire Ambtenarenwet*, revised in 2009) states in Article 1a that a person can only be a member of the Armed Forces if he or she is older than eighteen years. There is an exception to this rule: persons of seventeen year old can become an aspiring military officer (*aspirant militair*), also referred to as military trainee or military under probation. A written consent of their legal representatives is needed and aspiring military officers may not directly take part in hostilities.

To become an aspiring military officer, most students follow the General Military Course (*Algemene Militaire Opleiding*, hereinafter: AMO) or the General Military Airmobile Course (AMOL). Both the AMO and the AMOL form part of a probationary period, until their eighteenth birthday.

One does not apply for AMO(L) directly: rather, someone applies for a certain job at the Armed Forces and then starts with the AMO(L)-course.

The number of minors who were recruited as aspiring military officers by the military has declined in recent years. In 2009, 899 boys and girls under eighteen were recruited by the military as aspiring military officers, while in 2010 that number decreased to 513. In 2011 that number declined to 138 (Appendix to *Kamerstukken II 2011/12*, 26 150 nr. 110).

### *Military status*

From the day they start their military education, AMO and AMOL-students are employed and paid by the Ministry of Defense. AMO and AMOL-students have an official military status and are, although special provisions for minors apply, consequently subject to military criminal law.

### *Age*

According to the website of the government, students can start with the AMO-course at the age of 16 years and 9 months.<sup>1</sup> AMOL-students can, according to the website of the government, start at the age of 16 years and 6 months.<sup>2</sup> This contradicts domestic law which provides that only “those who have reached the age of 17 may be enlisted as military trainees [aspiring military officers]” (article 1a of the Military Personnel Act). It also contradicts the binding declaration by the Dutch government upon ratification that provides: “persons who have reached the age of seventeen years, may on a strictly voluntary basis be recruited as military personnel in probation” (§13 of the Initial report).

It is unclear whether there are actually people under the age of seventeen taking part in the AMO(L) courses but the Coalition spoke to a minor of sixteen years who participated in the introduction weekend. This weekend consists of three days in which the students get a military training to test their mental and physical capacities. After these three days, a selection is made of who will actually be accepted for the course.

Aside from that, the government’s website specifically mentions that one has to be 16 years and 6 months (AMOL) or 16 years and 9 months (AMO) at the start of the course, which can at least be called confusing.

#### **Recommendation**

> Ensure that only persons of seventeen years and older on the military courses for aspiring military officers are admitted

### *Recruitment*

In addition, the recruitment of young people under eighteen for military training is a contradictory signal to other countries, especially to countries involved in armed conflicts. This undermines the position of the Netherlands as a role model and host country of the International Criminal Court, which convicted former Congolese rebel leader, Thomas Lubanga Dyilo, for recruiting child soldiers.

#### **Recommendation**

> Raise the minimum age for recruitment of voluntary military service to eighteen years

<sup>1</sup> For example: <https://werkenbijdefensie.nl/vacature/onderofficier-elektrotechniek-idt-informatie-detectietechniek-250.html> which says: “Age at start of the course at least 16 years and 9 months”.

<sup>2</sup> For example: <https://werkenbijdefensie.nl/vacature/soldaat-infanterie-luchtmobiel-203.html> which says: “Age at start of the course at least 16 years and 6 months”.

*“During the introduction weekend one of the exercises is swimming with a gun. You have to hold the gun up and keep it dry. Meanwhile instructors are constantly screaming at you that you are not trying hard enough. You feel like you will drown. Many people drop out during this exercise.”*

- AMOL student (interview #1)

### *Educational program of the AMO and AMOL*

The AMO-course consists of a general, basic military training. Courses include military bivouac, fighting, gun firing, map reading, military ethics, military law, sports, mental training and military self-defense. The AMOL is comparable to the regular AMO but is, according to various sources, significantly harsher.

The AMO-course takes four months, or three months if the student has already completed a VeVa course (see §II-c). The AMOL-course takes seventeen weeks.

### *Military self-defense*

During the educational program of the AMO and AMOL, the students must conduct a training called ‘Military Self-Defense’. The activities of this training are focused on defense and attack. The students learn how to act with and without weapons to defend themselves and/or others.

During these military self-defense-trainings, the instructors make use of the ‘Manual Military Self Defense’ (*Handleiding Militaire Zelfverdediging*) which is also used for a training of regular military officers. There are no specific guidelines regarding children in this manual. The Dutch NGO coalition for children’s rights would recommend to develop these specific guidelines for minors. The duration and intensity of the exercises should be adapted to the physical abilities of minors. These guidelines should be made in cooperation with pediatricians and other experts in the field of children’s physical endurance. The guidelines should also contain a specific prohibition on physical contact with the heads of students during the Military Self Defense-training.

### **Recommendation**

- > Develop specific guidelines for minors for the module Military Self Defense.
- > Develop these guidelines in cooperation with pediatricians and other experts in the field of physical endurance of children.
- > Make sure all the instructors / teachers know of, are trained in, and use these specially made guidelines when working with minors.
- > Never allow physical contact on the students’ heads

### *Firearms*

Training in the use of firearms is part of the military training of aspiring military officers. Part of the training is the module 'shooting', in which live ammunition is used.

The Coalition is of the opinion that aspiring military officers in the army should not come into contact with firearms. Although there are clear safety guidelines for the use of weapons, it can still be considered harmful for the development of children to grow up using weapons. It is crucial to ensure that young people are not educated in a way that propagates violence and exposes them to unnecessarily harsh situations.

#### **Recommendation**

> Ensure that seventeen-year-old aspiring military officers are not trained in the use of firearms.

### **C. Security and Craftmanship vocational course**

The vocational military course Security and Craftmanship (Veiligheid en Vakmanschap, hereinafter: VeVa) also prepares students for a possible job at the Armed Forces. The difference between AMO(L) courses and the VeVa-courses can be found within the age: the VeVa is accessible to persons from the age of 15 years and 6 months (the general age requirement for any education at an ROC-MBO school: the schools that host the VeVa-courses).

Another difference is the fact that within the AMO(L)-courses students use a weapon during the module 'shooting' while at the VeVa students are not allowed to use weapons.

Students are admissible for the VeVa after completing a VMBO-education (the lowest level of high school education in The Netherlands). The VeVa-courses are given by Regional Training Centres (ROC), which are MBO-schools.<sup>3</sup> There are over 30 ROC schools that provide VeVa-courses.

Except for the subjects of Dutch, English and calculation, the teachers consist of instructors who are still working, or have been working as military officers. A high proportion of the instructors is provided by the Ministry of Defense.

#### *Educational program*

The VeVa-course takes 18 to 48 months, depending on the level (2, 3 or 4<sup>4</sup>) and depending on the specialization/program.<sup>5</sup> The monthly educational program of all VeVa-programs consists of three weeks of training at the MBO school and one week of practical training ('beroepspraktijkvorming', hereinafter: BPV) which can be considered an internship. During the BPV, students spend one week, Monday to Friday, at the military barracks.

<sup>3</sup> From any VMBO high school education one can enter into MBO education (Middelbaar Beroepsonderwijs, MBO). One can also enter MBO after dropping out of one of the other levels of high school education, provided one has reached a certain year.

<sup>4</sup> While level 2 prepares students for a more practical job, levels 3 and 4 prepare students for a leadership position.

<sup>5</sup> There are different specializations: Automotive Engineering, Construction, Ground Operations, Information and Communication Technologies (ICT), Logistics, Maritime, Mechatronics, Aircraft Maintenance and Medical Care.

For every educational VeVa-program the subjects are somewhat varied. However, all students follow the courses 'military self-defense' and 'mental training'. Because these two aspects of the military course seem particularly harmful to children, a more detailed description of these courses will be given below.

### *Military self-defense*

Military self-defense-training is one aspect of the military educational program in which fighting techniques are practiced. The training is divided in two parts, martial arts-oriented ('vechtsportgericht') and operational-oriented ('operationeel gericht'). The military self-defense is in the curriculum of all military (basic) education, including the VeVa (and the AMO(L) and other military education).

The Dutch NGO coalition on children's rights has strong doubts about the suitability of this military self-defense course after having interviewed VeVa-students about their experiences during this course. This is only one example of an experience a student spoke of:

*"One time, during military self-defense, we were blindfolded. The military instructor passed us by and beat people up, punching them in the stomach. Why? Just so we are in pain. He thinks that's funny. We all think that's funny. You suddenly hear [makes the sound of someone who is being punched in the stomach] and then everyone starts laughing (...)."*

- VeVa student (interview #8)

Military self-defense training seems to entail physically testing and pushing students in an atmosphere of violence. The Dutch NGO coalition for children's rights argues that military self defense (meaning: all self-defense exercises that are different from regular sports such as boxing, judo, taekwondo, etc., including their regular rules) ought to be replaced with regular self defense.

During Military Self-Defense-trainings, the instructors make use of the 'Manual Military Self Defense' ('Handleiding Militaire Zelfverdediging') which is also used for the training of regular military officers. There are no specific guidelines regarding children in this manual.

The Coalition recommends to develop specific guidelines for minors, particularly as the minors who follow the VeVa-program are still very young. The duration and intensity of the exercises should be adapted to the physical and mental abilities of minors. These guidelines should be made in cooperation with pediatricians and other experts in the field of physical and mental endurance of children and should contain a prohibition for physical contact on the heads of students during the Military Self-Defense-training.

In June 2011 a 20-year old VAKOL-student<sup>6</sup> died of brain damage after having completed a military defense track during his educational training. After the death of the student, an investigation was performed by the Ministry of Defense, of which the report has recently been leaked to the media.<sup>7</sup>

In response to the 2011 report the Minister of Defense declared, in a letter to the House of Representatives of April 2014, that “(...) the guidelines for military self-defense have been evaluated and quality guards for military self-defense have been appointed” and that “a policy framework for ‘formation’ has been drafted” (Letter of the Ministry of Defense, April 24, 2014, BS2014012828). However, none of the military instructors we spoke used these guidelines or noticed anything about quality guards. This is the case for both the AMO(L) and the VeVa-courses.

### Recommendations

- > Develop specific guidelines for minors for the module Military Self-Defense.
- > Develop these guidelines in cooperation with pediatricians and other experts in the field of physical and mental endurance of children.
- > Make sure all the instructors / teachers know of, are trained in, and use these specially made guidelines when working with minors.
- > Never allow physical contact on the heads of students.

### Mental training

Mental training is an important aspect of the military exercises at both the MBO-schools and at the BPV-days at the military barracks.

Examples of “mental training exercises” are the following:

*“During our third bivouac we had to dig ‘ligsleuven’ [individual trenches]. During the night we were sleeping in tents and all of a sudden we were woken up by the sound of nitrate bombs. You’re scared out of your mind and people were shouting: ‘Get up!’. Then you have to be in your ‘ligsleuf’ within two minutes. So you don’t get dressed, you jump in your ‘ligsleuf’ and have no idea how long you have to stay there. It was minus five degrees [celsius], freezing cold, and there were people who weren’t even wearing clothes. We had to stay there for half an hour.”*

- VeVa student (interview #4)

*“We are often being belittled to see whether we can take it. During running exercises, all of a sudden they [instructors] are running right behind you and start screaming ‘God-damn it, asshole’ or ‘Son of a bitch, run harder!’ and then they push you in the neck.”*

- VeVa student (interview #8)

On the whole, it is quite unclear how this mental training is supposed to be conducted as there seem to be no guidelines for teachers conduct. As a result, each military instructor has his or her own ideas about mental training and uses his or her own approach. Descriptions that are often mentioned by respondents regarding this training include: scaring students, screaming at students, belittlement of students, combined with sleep deprivation, physical exhaustion and food deprivation. Comparable exercises, although usually in a lesser degree of harshness, are part of the military training at the MBO schools (ROCs).

### **Recommendation**

> Develop clear and general instructions for the mental training at all military education schools so that each instructor knows and follows these instructions.

> Develop these instructions in cooperation with pedagogues, psychologists and child rights experts so that the mental training is suitable for children and is in accordance with the UN-CRC.

### *Monitoring the BPV at the military barracks*

One week a month, the VeVa-students do an internship at the military barracks: the so called BPV-days (*Beroepspraktijkvorming*).

The program of this training differs per specialization (for example, engineers get a training in building bridges etc.), however all students are subject to an extensive physical and mental training. A student explained that the level of intensity of these trainings varies:

*“It depends on the goal of that week. If the goal is to completely break you, you come out broken. Both physically and mentally. That’s tough, but: ‘The more you sweat in practice, the less you bleed in battle’.”*

-VeVa-student (interview #4)

The VeVa-teachers from the MBO-school try to critically examine if anything inappropriate has happened during the BPV-days at the military barracks. One way of doing this is by visiting the military barracks during the BPV-days. The frequency of such a (monitoring) visit to the military barracks differs greatly per MBO-school: from two or three times a year, to once every month. Reasons for this infrequent schedule of visiting are a lack of time and resources, but also a lack of cooperation at the barracks. Most of the time teachers can only visit barracks during BPV-days when this has been announced beforehand. MBO-school teachers report not having been allowed to enter the site when arriving without prior notice.

The Dutch NGO coalition for children’s rights has heard signals that misconduct occurs at the BPV-days. However, it is likely that the teacher from the MBO-schools will not always find out what has happened during the BPV-days as it is viewed as socially unacceptable for the students to voice complaints regarding pain or mistreatment.

### Recommendations

> Enable ROC staff to regularly visit internship locations when their students are training there, without prior notice

>The Dutch Inspectorate of Education should conduct a thorough research to the situation during the internship-BPV-days at the military barracks

### Didactic experience

According to the interviews conducted with teachers, there are military instructors, both at the MBO-schools and at the BPV-days, that do not have any pedagogical and/or didactic knowledge or experience. As a consequence, some instructors behave in quite a harsh manner towards their students. A military instructor at an MBO school admits to being a harsh teacher, especially during the first year:

*„You have to prepare students for the harsh sides of the profession [...] You will get to face things that are unexplainable [...] Women who are beaten up in front of your eyes [...] So if you stop during ‘sports’ because you are extremely tired, for me you are actually saying that when you are on patrol and you enter a fire fight, you will say ‘I can’t do it anymore’. You will endanger your buddy by acting like that. I then explain to my students: this is the consequence of your behavior”.*

-Teacher (interview #5)

### Recommendation

> Ensure that all instructors on both the MBO-schools and during the BPV-days at the military barracks, have a pedagogic didactic certificate when teaching students.

### Influence of the Ministry of Defense

In the Dutch State report on OPAC, the government states that “there are no schools operated by or under the control of the armed forces in the Kingdom. However, there is a vocational ‘Peace and Security’ course [the former name of the VeVa-course] in the Netherlands for people seeking jobs in this sector (...)” (Initial report of The Netherlands, p. 9).

Considering the undisputable influence of the Ministry of Defense on the educational program of the MBO-schools, the Coalition finds this statement to be questionable.

The Ministry:

- 1) decides the curriculum;

*“Theoretically speaking VeVa is an ROC educational program, but in practice it is an educational program of the Ministry of Defense, in which the ROC participate. The Ministry of Defense largely decides what happens, as ROC you are there to practically execute these decisions.”*

- VeVa-teacher (interview #2)



- 2) provides for all of the teachers except for teachers of Dutch, English and calculation;
- 3) controls the amount of students allowed to enter the program (related to the amount of future available military positions);
- 4) provides educational equipment such as clothes etc.;
- 5) organizes and takes exams related to the “vocational part” of the educational program.<sup>8</sup>

VeVa students get paid €70 (or sometimes €100) per month by the Ministry of Defense as an ‘internship fee’.

### **Recommendations**

> Ensure that the (board of the) ROC/ MBO-school is responsible for the content and implementation of the educational program

### *Future prospects after VeVa-education*

When VeVa students complete the VeVa education, they receive an MBO-diploma. To enter the military, students then have to take physical, medical and psychological tests. If they pass these tests, former VeVa students follow a shortened regular military educational program (for example, the AMO usually takes 4 months, but for former VeVa students it takes 3 months).

If the VeVa-student does not pass the test, or decides not to enter the Armed Forces, the future prospects for the student are not always that positive.

VeVa students who studied “Grondoptreden” (“ground forces”), which is 75% of all VeVa students (Ministry of Defence, 2013c), have followed a course that is specifically geared towards a military career and therefore have a diploma that is mostly unsuitable for obtaining employment in civilian society.

Undertaking a news study direction in civilian society is additionally financially complicated, as a student has already spent quite some money on their VeVa course.

### **Recommendation**

> VeVa education should be a more general education during which students are educated for any profession in so-called “uniform vocations” (police, security, military), after which they can choose any specific specialization

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<sup>8</sup> This is confirmed by a 2013 financial report of one of the MBO schools:

[https://www.horizoncollege.nl/fileadmin/redacteurs/documenten/downloads/jaarverslag/jaarverslag\\_2013/Jaarverslag\\_2013 - Deel 3.pdf](https://www.horizoncollege.nl/fileadmin/redacteurs/documenten/downloads/jaarverslag/jaarverslag_2013/Jaarverslag_2013 - Deel 3.pdf), p. 95.

### *Concluding analysis of the military educational programs in The Netherlands*

Aside from the harsh and potentially damaging elements of the military education of minors as listed above, the Coalition additionally wants to emphasize the benefits that this (type of) educational programs can provide to young students.

In the interviews we conducted, respondents often testified that the students benefit from learning discipline in a structured environment and from being able to do most of their education outside the classroom including a lot of physical exercise. Students said to have learned how to co-operate and leave no one behind. They are very fond of some of their teachers. Some of the VeVa students consist of high school dropouts who benefit extensively from this structured educational program, a structured environment that high school could not provide, which, after all, enables them to obtain a diploma after all.

*"I used to only think about myself and how to make it, even if that meant leaving the weaker students behind. But when we did that our instructors would get mad and punish us all except for the weaker student. That made me think. He is part of the group. When I now see someone being bullied I walk over and think 'why are you doing that?'. It taught me a lot."*

- VeVa student (interview #8)

Of the (military) teachers that the Coalition interviewed for this report, many are highly involved with their students. They go to great lengths to protect them and adjust to their needs. They do however lack proper guidelines and complain about not being able to influence the educational program for the students.

Apart from the benefits, the Dutch NGO coalition for children's rights has concerns regarding the idea of educating children in a military way. The CRC has defined a child as everyone below the age of eighteen. The reason for choosing this age lies within the scientific knowledge that the brains of children are still developing. They can't be fully held responsible for their actions and have a right to extra protection.

Education always influences someone's development, and that is even truer for children as they are still developing. When following a military educational course at the age of fifteen, sixteen or seventeen, the development and character of the person will be highly influenced by the military, a way of living in which violence and war are inescapable elements.

A teacher we spoke to described that as follows:

*"VeVa students make a big choice at age sixteen. They choose a certain way of life. [...] they choose to work in an organization of violence. Can they straighten that with themselves, can they use violence when necessary, [...] ordered by the government they work for? When you are sixteen, you cannot realize that. [...] they cannot oversee the consequences of their choice to enter into military education."*

- VeVa-teacher (interview #6)

Since military education of minors below the age of eighteen is currently allowed, the most important thing to do is to formulate clear guidelines regarding the training of these children. This is even more important for the mental and physical training. These guidelines must be developed in cooperation with psychologists, pediatricians and child rights experts to ensure that they are safe and child friendly.

In addition to developing the guidelines, they must also be widely disseminated and used by everyone who is working with these children. But also make sure that the minor students know about the rules that apply so that they can complain or at least be aware when inappropriate things occur. They need to know where the line is, to understand when it is being crossed.

Create an accessible and child friendly complaint procedure so that the misconduct we have encountered in this research will not happen again.

### III. Prohibition and related matters

#### Recruitment by armed groups

There are signals that minors are being recruited for armed conflicts or terrorist activities in Syria. According to OPAC Article 4, the Dutch government is obliged to take all feasible measures to prevent such recruitment and prohibit and criminalize such practices.

#### *Number of minors recruited by armed groups*

According to the Dutch government the level of threat of terrorism in the Netherlands is significant. One of the most important factors is the threat of Jihadism (Ministry of Security and Justice, 2014a; Ministry of Security and Justice, 2014b). Most of the Jihadists are between 20 and 30 years old (Ministry of Interior Affairs and Kingdom relations, 2014). There are indications, but no specific figures, that (Dutch) people younger than eighteen have travelled to Syria and joined Jihadist groups.

Between five and ten minors that were recruited in the Netherlands by Jihadist groups, and were already on their way traveling to Syria, have been stopped at the borders (interview with the deputy National Coordinator for Counterterrorism and Security on August 8, 2014). These numbers cannot be found in official documents of the government while this can be very important for the monitoring of a decrease or increase of young Jihadists and for policy matters.

#### **Recommendation**

> Specify how many minors that have been recruited by jihadist groups have been stopped at the Dutch borders and include this in official documents that are publicly accessible.

#### *Protection measures*

The current policy to address the problem of young jihadists traveling to Syria consists of three elements. Firstly, supporting parents in cooperation with local police. Secondly, annulling the passport of youngsters at risk. Thirdly, involving the Child Protection Board.

The Child Protection Board (CPB) investigates upon request when children seem to be recruited or are planning to travel to a country to join terroristic groups. If the inquiry confirms that the development of the child is at risk and the professional help is not or longer adequate or the parents refuse to accept help the CPB ask the juvenile court for a child protection remedy. In this way the CPB tries to prevent minors from leaving and provides a safe environment where the minor will get assistance and specialized help. During this intervention, parent are temporarily restricted in their parental custody. A family guardian will accompany the parents and minor in this situation.

According to the deputy National Coordinator for Counterterrorism and Security, the Dutch government has a priority in trying to prevent minors from being recruited by Jihadist groups. The Dutch NGO coalition for children's rights suggests to intervene in an earlier stage to prevent children from being recruited. For example by using public awareness campaigns. The government should inform minors, youngsters, parents and teachers, about how

to recognize and how to respond to signals of recruitment by terroristic groups. In addition, more attention should be paid to tackling recruiters and recruitment groups, as would be in accordance with article 4 OPAC. These measures should be implemented in co-operation with other member states of the European Union.

#### **Recommendation**

- > Develop policy to prevent minors from being recruited
- > Act firmly against the recruitment of minors by recruiters or recruitment groups.

#### *Return of recruited minors*

The main focus of the government is to prevent youngsters from Syria from committing terrorist attacks in the Netherlands. It is likely that the recruited minors have experienced harmful activities in the country they went to. As a consequence, their development could be at risk and they could be traumatized.

The NGO Coalition would suggest to develop policy with special care for minors that returned from armed conflicts.

#### **Recommendation**

- > Create specific policy for minors that returned from armed conflicts or terrorist activities.

#### *Taking away the Dutch nationality as a sanction*

In 2013, the Minister of Security and Justice introduced a concept-bill stating that if a Dutch person is participating in a terrorist organization or if a person follows a training in a terrorist camp or acts as an instructor in such a camp, he or she can lose the Dutch nationality.

According to several international conventions, and as stated in Dutch Nationality law, a person may not become stateless as a consequence of policy (art. 14, paragraph 6 of the Dutch Nationality Act; *Rijkswet op het Nederlanderschap*). This new measure will therefore only be applicable for people with a dual nationality.

The NGO coalition for children's rights believes that this measure should not be applied to minors at all. Firstly, because the government has an obligation to protect the nationality of the child according to Article 7 of the CRC. Secondly, losing one's nationality would have strong negative consequences for the child's development (Article 6 CRC). Furthermore, every child has the right to grow up with his or her parents (Article 8 CRC). Children that went to Syria without their parents, should have the possibility of returning.

However, the Ministry of Security and Justice works on exceptions in its policy, which will potentially include an exception for minors (interview with the deputy National Coordinator for Counterterrorism and Security on August 8, 2014).

#### **Recommendation**

- > Guarantee that the measure to take away the nationality of a person who has participated in terrorism-activities, does not apply to minors.

## IV. Protection of the rights of victims

### *Refugee children*

Signaling and identifying victims of armed conflicts among unaccompanied minors or children seeking asylum with their parents or family members remains difficult. There appears to be no general identification mechanism. It comes to assessing each individual case. Most children prefer not to talk about their past, especially if they themselves have committed crimes during armed conflicts. Identifying the problems of these vulnerable children (such as former child soldiers) can therefore prove to be difficult. Because of this, there is a high risk that these vulnerable children do not come to the attention of emergency services and do not receive the specialized care to support them to cope with their experiences.

#### **Recommendation**

Ensure that there is a systematic approach to signaling and identifying the (problems of) vulnerable groups of children (including child soldiers) from areas with armed conflicts.

### *Article 1F*

Article 1F of the Refugee Convention states that those who have committed a crime against peace, a war crime or a crime against humanity, are excluded from the rights provided by the Convention. In 2003, a special rule was adopted in the Netherlands for the application of Article 1F on child soldiers (*Stc.* 131, 2003). Persons who committed crimes at the age under 15 are not held responsible for acts as referred to in Article 1F. Child soldiers between the age of fifteen and eighteen can, however, be held responsible for these crimes. Different facts and circumstances are taken into account to decide whether a fifteen to eighteen-year old will be excluded from the rights provided by the Refugee Convention.

The Dutch NGO coalition for children's rights is of the opinion that the rule to have a possibility to hold fifteen to eighteen-year olds responsible for acts as referred to in Article 1F of the Refugee Convention, is not in line with the CRC. Children are more vulnerable, dependent and have special needs for their development, which adults do not have. Article 22 CRC provides extra protection for refugee children and Article 39 CRC requires the government to take all appropriate measures to promote physical and psychological recovery and social reintegration of child victims of armed conflicts. The clearest article is probably Article 1 CRC which states that a child is every person below the age of eighteen.

Former child soldiers should be given the chance to start anew. This is already incredibly difficult, but applying Article 1F to these children makes this impossible.

#### **Recommendation**

> Do not apply Article 1F of the Refugee Convention to children who committed crimes as a child soldier at the age of fifteen to eighteen.

### *Specialized care*

Children from countries with armed conflicts have the right to receive care in learning how to cope with the psychological and social results of the life-threatening and often traumatic experiences they have suffered. Processing the negative experiences and handling the psychosocial results require expertise and long-term care. Although there is some form of mental health care available for asylum seekers and refugees, the regular mental health care system has little to no knowledge about dealing with the specific psychological problems that children who have become victims of armed conflicts deal with.

#### **Recommendation**

> Strengthen the specialised care for children from areas with ongoing armed conflicts in their psychological and physical recovery and with their integration in society.

### *Rights of children in captivity*

There is no general policy in case the Dutch Armed Forces capture minors during an operation abroad. According to the Ministry of Defense, specific instructions on the treatment of prisoners are made for each operation. Within these instructions, there are specific provisions for children.

The general rule, according to the Ministry of Defense, is that minors are in principle detained separately from adults, but they will not be separated from their family. The treatment of minors in detention takes place with extra care and supervision, according to the Ministry. The attending physician examines, at the spot, whether the captured person is a minor so that, if necessary, the special provisions for minors apply.

The NGO Coalition for Children's Rights calls for the development of general policy which applies to every operation of the Dutch army abroad and which at least contains the following minimum standards:

- the reason for captivity;
  - whether these children are being treated in accordance with the UN Convention on the Rights of the Child;
  - whether they are accused of involvement in armed groups;
  - whether legal support is provided;
  - whether children may be tried in military courts or by special anti-terror laws.
- Additional instructions can be added per operation in order to make it more operation-specific.

#### **Recommendations**

> Develop general policy for minors that have been captured by the Dutch army during a military operation abroad.

> Provide training to all military officers on the rights of children, the rights of child soldiers and the rights of children in captivity.

## V. International assistance and cooperation

### *Weapons and cluster munitions*

In 2013, the Netherlands had the eighth place on the list of the European Union's most active countries for weapon export. It is estimated that this results in an annual revenue of €3.1 billion for military production (ministry of Foreign Affairs, 2014). The export of weapons (including small and light weapons) should be in line with the Dutch development policy which promotes safety and stability (Ministry of Foreign Affairs, 2013). Exporting and distributing small arms can have a destabilizing effect on the development of a whole country or region, which runs counter not only to the commitments of the Optional Protocol but also to those of the CRC. There is a chance that (parts of weapons) end up in countries which are on the blacklist of The Netherlands, through neighboring countries that serve as transit countries. First of all, these weapons might end up in a country with an armed conflict of which is suspected or known that children are forcibly recruited or used in hostilities. Secondly, these weapons might contribute to armed conflicts where there are child casualties.

The Arms Trade Treaty (ATT), which was signed by the government of the Netherlands on 3<sup>rd</sup> June 2013 but not yet ratified, may help address some of these challenges by regulating international transfers of conventional arms. It includes explicit prohibitions on the authorizing of arms transfers by States under certain circumstances, including where there is knowledge that the arms would be used to perpetrate war crimes, genocide, attacks against civilians, and other grave breaches of the Geneva Conventions. The Treaty sets an important basis for global action to control the conventional arms trade.

The Dutch NGO coalition for children's rights is pleased that on February 23<sup>rd</sup> 2011, the Netherlands ratified the Convention on Cluster Munitions. Since January 1<sup>st</sup> 2013, there is a prohibition on direct investments by financial institutions in cluster ammunition.

### **Recommendations**

>The Netherlands should introduce a special ban on the sale of arms when the final destination is a country where children are known to – or may potentially – be recruited or used in hostilities. Current monitoring practice in the Netherlands does not provide for such a special ban.

> The Netherlands should ratify the ATT and further promote the signing and ratification of the Treaty by other State Parties.



## VI. Other legal provisions

### *Training and awareness of the Lucens Guidelines*

In 2012, the Global Coalition to Protect Education from Attack (GCPEA)<sup>9</sup> made a draft of the so called 'Lucens Guidelines' with the aim of "better protecting schools and universities for use by armed groups for military purposes" and to "minimize the negative impact that armed conflict has on students' safety and education"<sup>10</sup> States and intergovernmental bodies are urged to encourage all parties to armed conflicts to act in accordance with these Guidelines, and to help enable them to do so.

The Special Representative of the Secretary-General for Children and Armed Conflict called upon UN Member States to tackle the issue of military use of schools „by taking concrete and proactive initiatives to protect schools and promote their civilian status, through the inclusion of protection elements in military training and doctrine and operational planning, as well as the incorporation of the recent Lucens Guidelines into national legislation" (UN General Assembly, Annual report of Special Representative of the Secretary-General for Children and Armed Conflict, December 2013, para 62).

The Netherlands currently has no military doctrine explicitly regulating the use of schools for military purposes by its own forces, nor detailing the obligations of Dutch Armed forces to ensure children's right to education and to facilitate the proper working of all institutions devoted to the education of children.

### **Recommendations**

> Enact domestic legislation and institute military policies explicitly prohibiting armed forces from using or occupying schools, school grounds, or other education facilities in a manner that would endanger civilians or that would violate children's right to education. Act in accordance with the Lucens Guidelines.

> Continue to advocate internationally for the protection of students, teachers, and schools, and support efforts to further develop the Draft Lucens Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict.

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<sup>9</sup> GCPEA is governed by a Steering Committee made up of the following international organizations: CARA (Council for At-Risk Academics), Human Rights Watch (HRW), Institute of International Education/ IIE Scholar Rescue Fund, Protect Education in Insecurity and Conflict (PEIC), Save the Children, UNICEF, UNESCO and UNHCR.

<sup>10</sup> [http://www.protectingeducation.org/sites/default/files/documents/draft\\_lucens\\_guidelines.pdf](http://www.protectingeducation.org/sites/default/files/documents/draft_lucens_guidelines.pdf)

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### **Law and legislation**

Military Personnel Act

The Act on Dutch Nationality; *Rijkswet op het Nederlanderschap*, art. 14 paragraph 6.

Arms Trade Treaty

Convention on Cluster Munitions

### **Official documents**

*Aanhangsel van Handelingen II 2013/2014* (December 30, 2013).

*Kamerstukken II 2013/14 754-VI nr. 235*

*Kamerstukken II 2013/29 754-VI nr. 238*

### **Others**

Ministry of Security and Justice (2014, August 8): interview with mr. Th.P.L. (Theo) Bot Deputy National Coordinator and Counterterrorism and Security.

Ministry of Security and Justice (2014, August 13): interview with Ms. mr. J.N. Polders-Reinders Senior Advisor Policy Council of Child Care and Protection.

## Overview of respondents

Number	Position	Age
1	AMOL / VOL student 2013	19
2	Opleidingsmanager ROC oa VeVa	28
3	AMO (military) teacher	34
4	VeVa student	19
5	VeVa (military) teacher	33
6	VeVa (military) teacher	-
7	Retired military general	63
8	VeVa student	20
9	VeVa student (finished 2012)	20
10	Chef-staff of Inspector General of Military Forces	-

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