



CHILD PARTICIPATION AS VICTIMS OR WITNESSES IN CRIMINAL CASES IN THE NETHERLANDS

National Report for AIMJF's Comparative and Collaborative Research.

La participación de niños como víctimas o testigos en causas penales en los Países Bajos

Informe nacional para la investigación comparativa y colaborativa de la AIMJF

La participation des enfants en tant que victimes ou témoins dans des affaires pénales aux Pays Bas

Rapport national pour la recherche comparative et collaborative de l'AIMJF

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Abstract: The paper is part of a collaborative research organized by the International Association of Youth and Family Judges and Magistrates (AIMJF/IAYFJM) on child participation as victims or witnesses in criminal cases. The article explains the legal, institutional and procedural aspects of child participation in the Justice System in the Netherlands

Resumen: El documento es parte de una investigación colaborativa organizada por la Asociación Internacional de Juventud y Familia (AIMJF) sobre la participación de niños, niñas y adolescentes como víctimas o testigos en causas penales. El artículo explica los aspectos legales, institucionales y procesales de la participación infantil en el sistema de justicia en los Países Bajos

Résumé : Le document fait partie d'une recherche collaborative organisée par l'Association Internationale des Magistrats de la Jeunesse et de la Famille (AIMJF) sur la participation des enfants en tant que victimes ou témoins dans des affaires pénales. L'article explique des aspects légaux, institutionnels et procéduraux de la participation des enfants dans le système de justice aux Pays-Bas

Introduction

The International Association of Youth and Family Judges and Magistrates (IAYFJM or AIMJF, in the French and Spanish acronym) represents worldwide efforts to establish links between judges from different countries, promoting transnational judicial dialogue, in order to provide better conditions for a qualified attention to children based in a human rights approach.

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To do so, AIMJF organizes research on international problems facing the operation of the courts and various laws relating to youth and family and training programs.

The aims of this research are to identify similarities and discrepancies among countries and to develop a cartography of how child participation as victims and witnesses in criminal cases is organized worldwide.

This national report is based on a questionnaire prepared by AIMJF.

Questionnaire

Dear reader,

Before reading our answers to the questionnaire, we would like to point two things out:

1. Dutch criminal law is, in general, mostly focused on the suspect. We think that victims are becoming increasingly recognized, but the focus remains on the suspect.
2. We think that in the Netherlands, children involved in the criminal justice system as victims still mostly depend on their parents' decisions.

With this in mind, we tried to answer your questions as good as possible.

Kind regards,

Douae Youssef and Nina Eggens

1. Right to be heard

1.1. Are children presumed to be capable witnesses (or presumed invalid/untrustworthy by reason of their age alone, or similar)?

In the Netherlands, children are considered vulnerable, but in general, capable witnesses. However, the child's age can affect how their testimony is treated; the judge will take the child's age into account when assessing reliability, but this does not mean that their statements are considered to be unreliable solely due to their age. In some cases, the judge

may decide to call in an expert, such as a child psychologist or psychiatrist, to help assess the reliability of the (young) child's statement and to understand the influence of possible external factors on the testimony. Ultimately, it is up to the judge to assess the value and reliability of a minor's statement. All circumstances of the case are considered, including the child's age, developmental stage, consistency of the statement, and any supporting evidence.

1.2. Are there any restrictions to the right to be heard (minimum age, or other criteria)?

The speaking rights/right to be heard of child victims is regulated in article 51e of the Dutch Code of Criminal Procedure (Wetboek van Strafvordering), hereinafter CCP). This article grants minor victims aged 12 and older the right to speak during the trial. The right to be heard applies in crimes for which the suspect can receive a prison sentence of 8 years or more, as well as other offences, such as sexual offences against children. Minors can express their opinions about the impact of the crime and other matters relating to the crime.

Younger children (under 12) can exercise this right through their legal representatives, such as parents and guardians, as long as such representation is not in conflict with the best interests of the minor.² The Dutch CCP provides the judge with judicial discretion to allow a minor under the age of 12 to speak for themselves if the judge deems them capable of doing so (if the child can be considered capable of a reasonable appreciation of his interests in the matter).³

1.3 Are children allowed to refuse to make a statement? If so, in which cases?

In general, minor witnesses cannot refuse to give a witness statement in criminal cases; the Dutch CCP does not provide a general exemption for minors from the duty to testify. However, there are certain circumstances and exceptions in which a minor witness may not have to testify. For example, minor witnesses can invoke the right to refuse to testify if they have a close personal relationship with the defendant, such as first-degree relatives

² Art. 51e lid 7 Wetboek van Strafvordering.

³ Art. 51e lid 6 Wetboek van Strafvordering.

(e.g., parents).⁴ Furthermore, the judge can decide that a very young child or a child who is unable to give a coherent statement does not have to testify. However, this is based on the judge's assessment. In exceptional cases, the judge can also decide (for example, based on the advice of an expert, such as a child psychiatrist) that a minor witness does not have to testify if it would have seriously adverse effects on the child's well-being).

2. Broad perspective of the legal framework and procedure

2.1. Is there a specific legal framework that defines how to treat child victims/witnesses of crime (e.g. special norms in the criminal procedural code, special child code, special victims code, etc)?

Yes, in Dutch criminal law, there is a specific legal framework that defines how to treat child victims and witnesses of crime. This framework includes special provisions within the criminal procedural code and other relevant regulations and guidelines to ensure the protection and proper treatment of children involved in criminal proceedings, since minor victims are considered victims with specific protection needs. Key elements of this framework include:

- (1) Dutch Criminal Procedure Code ('Wetboek van Strafvordering'): The Code of Criminal Procedure contains several articles specifically aimed at the protection of child victims and witnesses. Article 51aa sub-section 1 CCP explicitly states that the prosecutor shall ensure proper treatment of the victim. According to article 51aa sub-section 2, there is an obligation for the police officer, prosecutor and/or other investigating officers to ensure referral of the victim to a victim support facility where they can access information, advice and support. The 'Crime Victims' Rights Decree (Besluit slachtoffers van strafbare feiten) refers to the duty (of the investigating officers) to inform the child or his/her legal representative(s) of all rights and measures specifically related to the child. Child victims are considered victims with specific protection needs (article 13 of the hereabove mentioned Decree).⁵ For example, the police officer, the prosecutor or other investigating

⁴ Art. 217 Wetboek van Strafvordering.

⁵ Art. 13 Besluit slachtoffers van strafbare feiten

officers must ensure that the victim is referred to a victim support institution where they can access information, advice and support.⁶

- (2) Guidelines for Police and Judicial Authorities: There are specific guidelines for police officers, prosecutors, and judges on how to handle cases involving child victims and witnesses. One example is the Guideline Sexual Abuse and Sexual Violence (2018) ('Richtlijn Seksueel Misbruik en Seksueel Geweld') of the Public Prosecutor Service (OM). This guideline provides specific instructions for the Public Prosecutor Service and other relevant authorities regarding the detection and prosecution of sexual abuse and sexual violence, including guidelines for the interrogation of child victims and the use of specialized questioning techniques.

2.2. Is there any coordination between different role players (such as the police, education, social services, health system) to initiate legal proceedings and coordinate response (evidence collection and intervention), including avoiding multiple interviews of the child? Is there any flowchart in your country to coordinate these interventions? If so, could you please share it?

Although it is still in progress, initiatives have been developed to improve the coordination between different role players. We can provide three examples:

(1) The Care and Safety Houses (Zorg- en Veiligheidshuizen, or ZVHs). In the Netherlands, there are approximately 30 Care and Safety Houses. These are collaborative partnerships that connect stakeholders from the criminal justice system, healthcare sector, and municipalities. The goal of the ZVHs is to provide better assistance to individuals with cross-domain and complex issues through an integrated approach. The ZVHs seek more information about the vulnerabilities of the individuals they assist. This is essential for developing more targeted and effective policies. It is important not only to consider the vulnerabilities of the individuals themselves but also those of their social

⁶ Art. 51aa lid 2 Wetboek van Strafvordering.



environment. The ZVHs aim to incorporate these social surroundings into their integrated approach.

(2) Recently, Via225, located in Rotterdam, has been developed. Here, multiple organizations are located in the same building, including the Center for Domestic Violence and Child Abuse ('Centrum Huiselijk Geweld en Kindermishandeling'), Center for Sexual Violence ('Centrum voor Seksueel Geweld') and the Children's Hospital ('Erasmus MC Sophia Kinderziekenhuis'). Here, they provide medical, forensic, and psychological care, along with legal and social support. Clients (both adults and children) only need to tell their story once, as they can find all the help they need there, from doctors and psychologists to lawyers and police. They also collaborate closely with general practitioners and neighborhood teams of the municipality. This can be compared to the 'Barnahus model'. However, it should be noted that Via225 is yet an exception in the Netherlands since it is the first and only of its kind. Nonetheless, it seems that other municipalities are interested in developing a similar initiative.

(3) A third example is the 'Compendium for cooperation in cases of criminal child abuse' which includes a guideline for cooperation in cases of criminal child abuse (['Handreiking samenwerken bij strafbare kindermishandeling'](#)). This guideline was drafted by the different roleplayers in the process of reporting and investigating child abuse, such as Safe Home (Veilig Thuis), the police, the public prosecutor, the Child Care and Protection Board (de Raad voor de Kinderbescherming) and the parole board. The guidelines aims to improve collaboration in cases of reports of suspicion of (criminal) child abuse to Safe Home. More specific, the purpose of the guideline is to ensure consultation in all cases where one professional enters the expertise area of another professional, enabling everyone to optimally (jointly) contribute to keeping children safe from abuse.

2.3. Can you briefly explain what are the major steps of the legal procedure in criminal cases (felonies) with child victims or witnesses involved?

In criminal cases involving felonies with child victims (or witnesses), the legal procedure typically follows several key steps. Initially, the process begins with an investigation. Law enforcement authorities gather evidence, interview witnesses (the child is usually interviewed only once, at the police station), and compile a case. Special care is taken



when interviewing child victims or witnesses to ensure their safety and comfort, often involving trained professionals (we would like to refer to the answers to the questions in paragraph 5 ‘environment’). If sufficient evidence is found during the investigation, the case proceeds. The suspect is arrested and formally charged. In cases involving child victims, prosecutors might work closely with Victim Support Services to ensure the child's welfare throughout the legal process.

This can lead to a trial with a court hearing. Special accommodations are normally made for child victims or witnesses, such as using recordings of the interview with the child to avoid multiple interrogations to minimize trauma. Children are usually only heard at the police station in a special child-friendly interview room with one way screens and are heard by specially trained police officers. The interview is recorded and is part of the case file. After the trial, if the defendant is found guilty, sentencing follows. The judge determines the appropriate sentence based on factors like the severity of the crime and the impact on the child victim. The court can also issue protective orders, for example a restraining order, to ensure the child's continued safety (bijzondere voorwaarden).

At last, there is the possibility of appeals, where the public prosecutor (not the victim) can challenge the conviction or sentence.

2.4. In which moment(s) can a child be heard in this procedure?

In the Netherlands, the principle is to minimize the burden on child victims in criminal proceedings by minimizing the number of times they are interviewed. The child (or parents) is usually heard for the first time during a so-called ‘informative conversation’ after a report to the police. An official child interview generally takes place only once at the police station and various measures are taken to ensure that children can be heard without undue stress. Measures include limiting the number of times a child is heard, using video recordings of statements, and employing trained specialists to handle child interviews. Moreover, key principle is also that a child is only heard once, because repeated questioning is risky due to the increasing likelihood of an unreliable statement. A decision for a second hearing/testimony can be made by the Public Prosecutor or Investigating Judge (usually at the request of the lawyer of the suspect). Usually, an



examination of the minor victim is conducted to determine if it is actually necessary to hear the child again. If deemed necessary, the child is questioned by the same person as in the first hearing at the police station.

The answer to question 1.2 regarding the speaking rights of minor victims describes another moment during which a child can be heard in the procedure. For another occasion to hear the child, I would like to refer to the answer to the following question (2.5).

2.5. Does the child have the power to initiate, suspend or terminate the criminal procedure (such as giving consent for the complaint or the possibility to refuse consent or revoke consent)? If so in which cases?

In Dutch criminal law, the power of a child to initiate, suspend, or terminate criminal procedures is limited, as these decisions are typically made by the Public Prosecution Service (OM) or the judiciary. Regarding initiating criminal proceedings, while anyone, including a child, can report a crime to the police, the decision to initiate criminal proceedings is made by the Public Prosecution Service. The child's report can trigger an investigation, but the final decision to prosecute lies thus with the authorities. In cases involving sexual offences, especially those where the victim is a minor, the authorities may proceed with the investigation and prosecution, even if the child or their guardians/parents are hesitant, to protect the child's welfare and/or the public interest.

For various sexual offences, the Public Prosecutor's Office is obliged (article 167a CCP), to (if possible) hear minor victims of 12 years. The views of the minor victim are thus taken into account in the prosecution decision to ensure that criminal prosecution follows where appropriate and is omitted if the interests of the child require so.

Regarding suspending or terminating proceedings, if a child victim or witness is unwilling to cooperate or testify, this can affect the prosecution's investigation and case. However, the decision to suspend or terminate proceedings is still ultimately made by the prosecutor.

3. Preparation for the child participation

3.1. Is there in your country specific child-friendly information material for children as victims or witnesses (e.g. brochure, video etc)? If so can you please share them?

The provision of information at first contact is elaborated in two regulations: *'The Regulations containing rules for the provision of information to victims'* and the *'Regulations containing rules for provision of case information to victims.'* The police officer provides the victim with an ([brochure](#)) overview with their rights during the initial contact. If the victim is under 12 years old, the information is provided to their legal representative. Research indicates that there is still a lack of a child-friendly brochure that provides information to the minor victim in clear and understandable language (Hogeveen & Sondorp 2020, p. 85). We would like to note that this study is from 2020 and we do not know if specific child-friendly information is available by now.

There are however specific child-friendly information materials available, designed to help children (and their parents) to reduce their anxiety about the interview in a child-friendly studio. For instance, the police website features a series of [videos](#) that cover relevant aspects and preparation for the interview. On the Instagram accounts of various investigative departments (of the police), informative [videos](#) can be found showcasing child-friendly studio's as well. The photo below also shows a brochure given to the child in the child-friendly studio. The cover states that this brochure is for internal use only and is not given to the child (for example, beforehand).



3.2. How do children have access to these materials? (e.g. brochure available at police station/court; brochure sent to the child together with summon; witness preparation conducted in court with support of a video, or with support of a special professional; investigator/judge orally explaining in child-friendly language before interview/hearing, or any other?) How long before the interview/hearing does this happen?

The police provides the child with a handout at initial contact and informs the victim about the rights they have. If the victim is under the age of 12, the information is provided to the legal representatives (parents or guardians). If necessary (for example, when the child doesn't understand the Dutch language) the child-friendly information is offered in another language. In the Netherlands, victims do not receive the summon. The Public Prosecution Service sends victims a letter with information about the location and time of the (criminal) trial. Along with this letter, there is a 'form with preferences' (wensenformulier) where victims can indicate, for example, whether they wish to exercise their right to speak during the hearing or that they'd rather send the Public Prosecutor a letter that can be read during the trial.

We would like to refer further to the answer to the previous question (3.1) and to the answers to the questions under 5 (environment) about the process of interviewing/hearing the child.

3.3. Is there any assessment of the child conducted before a child is interviewed/heard? If so, what is assessed / for what purpose (e.g. background and circumstances of child; whether the child would be able to speak freely; capacity of child to express him/herself; capacity to participate, if uncertain; capacity to handle interview and possible effects; potential vulnerabilities and special needs, etc)? If so, what is the legal background of their professional conducting this assessment? To which institution does this professional belong? Is there any kind of report produced?

In the Dutch criminal law, minors are considered victims with specific protection needs.⁷ The 'Crime Victims' Rights' (Besluit slachtoffers van strafbare feiten, article 10)

⁷ Article 13 sub-section 1 Crime victims decree.



stipulates that the responsible investigating officer ensures that the victim is subjected to an individual assessment during or as soon as possible after the first contact. The general purpose of individual assessment is to systematically protect victims from secondary victimization, repeat victimization, intimidation and retaliation. More specific, the assessment is conducted to identify specific protection needs and to determine whether and to what extent special measures need to be taken for the victim during the criminal proceedings and the enforcement of criminal decisions. The individual assessment takes several factors into account: the personal characteristics of the victim, the type and nature of the criminal offense, and the circumstances under which the crime was committed. Furthermore, during the individual assessment, special attention is paid to victims who have suffered significant harm due to the severity of the crime, victims of criminal offenses motivated by prejudice or discrimination that are particularly related to their personal characteristics; and victims whose relationship with and dependence on the suspect or convicted person makes them particularly vulnerable (for example, when the parent has committed a crime towards the child). The victim is closely involved in the individual assessment and his/her wishes are taken into consideration, including the wish to not use special measures. Moreover, the individual assessment is adjusted as necessary to the current situation throughout the criminal proceedings. It is unknown to us if any kind of report is produced during this process.

3.4. Is there any kind of contact or evaluation with the parents or legal guardians?

Article 15 sub-section 1 of the 'Crime Victims' Rights Decree' stipulates that the legal representatives (usually the parents or guardian otherwise) or guardian ad litem needs to be informed on the rights and measures specifically related to the minor victim. It is unclear to us whether fixed evaluation moments are used in this regard, but the principle is that parents or legal guardians are kept informed throughout the process, unless this conflicts with the best interests of the child.

3.5. Is the child allowed/invited to visit the facilities where he or she will be heard prior to the interview/hearing?

Yes. Before the child is interviewed in the studio, the sexual offenses investigator (zedenrechercheur) visits the child's home to assess whether the child understands what



they can testify about and if they are willing to testify. They use a booklet that includes photos of the studio. The investigator tries to make the child feel as comfortable as possible and explain what to expect. On the day of the interview, the child is allowed to see the [child-friendly interview studio](#) first.

3.6. Does the child receive any kind of support prior to the interview/hearing (psychological, social, medical, legal)?

Yes, in Dutch criminal law, children who are involved in criminal proceedings as victims or witnesses may receive various forms of support prior to their interview or hearing. Regarding psychological support, children may receive psychological counselling before their interview and this can continue throughout the legal process. However, we think this is mostly done on their, their families' or their social workers' initiative, and not so much by the authorities. Regarding social support, trained social workers or victim support professionals ('Slachtofferhulp Nederland') may be assigned to provide emotional and practical support to the child and their family. Regarding medical support, if necessary, children receive medical examinations, particularly in cases of physical or sexual abuse. However, we would like to point out that we are unsure whether and how these support services are safeguarded in practice. It is thus questionable, to what extent children receive these forms of support.

4. Protection and Support

4.1. Is there any risk assessment conducted for the child victim/witness after a crime has been reported? If so, who conducts it? Is there any specific tool? If so, can you share it please?

As far as we know, it is not obligated by domestic law to conduct a risk assessment for a child victim or witness after a crime has been reported. However, professionals can decide to use a tool depending on the situation and the protocol of the organization they work for. The protocol can differ from organization to organization. For example, national organizations have developed their own guidelines, such as Child Protection Services ('Jeugdzorg') and Safe Home ('Veilig Thuis', which acts as the central contact point for



advice and reporting domestic violence and child abuse. It provides support and coordinates assistance for victims, perpetrators, and witnesses of such violence).

One tool is for example the Child Abuse Risk Evaluation – the Netherlands (CARE-NL), which can be used by professionals that are involved in the protection and/or support of children. These professionals may include Child Protection Services, Safe Home, the Police and medical professionals such as doctors. Simply put, the CARE-NL helps to systematically evaluate the risk factors and safety concerns of the child. It identifies various risk factors in the child's environment (e.g. history of abuse, current threats), it helps in creating a safety plan and recommends appropriate intervention strategies based on the assessments' findings.

4.2. In case of identification of risks, what kind of protective measures are available in your country?

Measures include, but are not limited to:

- Temporary safe housing, such as shelters (e.g. 'Blijf van mijn lijf huizen') for abused parents and their children
- Restraining orders ('contactverbod') for the alleged perpetrator. This means that the perpetrator cannot contact the victim(s), including possibly children.
- A temporary restraining order from the house ('tijdelijk huisverbod'), which is a legal measure (administrative law, by the municipality) that involves banning the (alleged) perpetrator from the home and having contact with the victim and any children involved. It can have a possible duration of 28 days in total.

Furthermore, via civil law, the following measures can be taken as a 'response' to child abuse to protect the child:

- Out of home placement of the child ('uithuisplaatsing'), ordered by the judge
- Supervision orders ('ondertoezichtstelling'), in which a family supervisor from the Child Protection Board ('Raad voor de Kinderbescherming') is appointed to monitor the family.

4.3. What kind of support measures are available for child victims / witnesses of crime (psychosocial, medical, legal) before, during, after the judicial process)

Victim Support Services ('Slachtofferhulp Nederland') plays the most important role in this regard. It offers comprehensive support, including legal advice, emotional support and assistance with preparing and navigation the judicial process. Victim Support Services also [refers](#) to additional (psychosocial) help if necessary.

4.4. In case of intrafamilial violence, which measures can be / are usually adopted to grant the child's security? Is there any/which kind of support offered to the remaining members of the family? Are there any specific measures in case of child abduction or child kidnapping?

Measures for child security in cases of family violence include, but are not limited to:

- Temporary restraining orders from the home ('Tijdelijk huisverbod'), see question 4.2
- Out of home placement of the child ('uithuisplaatsing'), see question 4.2.
- Supervision order ('ondertoezichtstelling'), see question 4.2.
- Safety plans, which are developed by professionals and are aimed to ensure the child's immediate and long-term safety, including arrangements for safe housing, schooling and medical care.

Support for remaining family members include, but are not limited to:

- Parenting support programs, which are available to parents to improve their parenting skills and address factors contributing to the violence.
- Financial and practical assistance, families may receive financial assistance, help with housing and other practical support to stabilize their situation. This is often done by the municipality.

Measures in cases of child abduction/child kidnapping include, but are not limited to:

- Police investigations
- Amber Alert System, which is used to rapidly disseminate information about the abduction to the public and media, increasing the chances of locating the child

- International cooperation, authorities cooperate with international organizations and other countries to locate and return the child. The Netherlands has ratified the Hague Convention on the International Child Abduction, which aims to facilitate international cooperation.
- Legal measures, e.g. the court can restrict the issuing of passports.
- Organizations such as the Centre for International Child Abduction ('Centrum Internationale Kinderontvoering') provide support, legal advice and assistance to families dealing with child abduction situations.

5. Environment

5.1. In which institution/what kind of environment is the child interviewed/heard in pre-trial/trial phase?

There is no provision in the Dutch CCP regarding the institution or the sort of environment where children are interviewed in the pre-trial phase. However, this subject is included in the 'Crime Victims' Rights Decree (article 11 sub-section a).' Victims under the age of 12 are interrogated in a special designed or adopted for that reason (childfriendly) studio at the police station. Minors of 12 years or older can also be heard in the child-friendly studio, but research shows that this rarely happens; they are mostly offered in ordinary interview rooms at the police station (Hogeveen & Sondorp 2020, p. 15).

In principle, the child victim is not heard during the trial hearing. If really needed, the victim can be heard in the courtroom without being physically present, particularly through appropriate communication technology (article 12 sub-section b of the Victim Rights Decree). But normally child victims and witnesses are not heard in court, only at the police station.

5.2 Is there any specificity in this environment to adapt it for children? (e.g. separate 'building' specifically for children; non child- specific building, but separate entrance for children; separate interview/hearing room for children)

As mentioned above (5.1) there are (separate) childfriendly interrogation studios/interview rooms at the police stations in the Netherlands. It is unknown to us if there is a separate entrance for children as well.

5.3. Are there guidelines for the environment where the child is interviewed/heard? (architecture, setting)? If so can you please share it? Can you share a photo of this space?

The environment is designed to feel homely for the child and to put him/her at ease. For that reason, the studio is colorfully decorated with drawings on the wall, stuffed animals and games. There are several cameras and microphones in the studio, so that a colleague can watch and listen to the interview from another (control) room on multiple screens.



wait there during the interview, while the child proceeds to the interview environment. It is unclear to us if this waiting area is specifically designated for the child.

5.5. Are there protection measures to avoid direct contact (including visual) between the child and the alleged offender? if so what kind? (e.g. separate entrance, separate waiting area, separate interview/hearing rooms, use of video link, voice or image distortion etc)

Yes. As Article 12 of the Crime Victims Rights Decree ('Besluit slachtoffers van strafbare feiten') states, measures can be taken during a trial for an identified victim with specific protection needs (children are always assumed to be this kind of victim):

- Avoiding eye contact between victim and offender
- The victim can be heard in the court room without being present there, for example by using an image and sound connection.

Moreover, the judge can decide to hear the case 'behind closed doors', when the victim is a minor, thus the trial is not accessible to the public. Furthermore, children can give a



testimony via video link from a separate room to avoid physical presence in the court room, and in some cases, voice or image distortion technology can be used to protect the child's identity. In all courthouses, separate waiting rooms are provided for victims before the hearing begins. Additionally, most courthouses have separate entrance and exit facilities. However, unfortunately, courtrooms typically do not have separate entrances and exits for victims (Hogeveen & Sondorp 2020, p. 93). But again, normally children are not heard in court, Only at the police station, to avoid secondary victimization.

5.6. In case identification of the offender is needed, how is this conducted, and where?

We are unsure, but we think that this will be done at the specialized interview rooms for children. See previous questions.

5.7. If the child lives in a different city in relation to the city where the proceeding is tried, what are the specificities at stake?

As far as we know, there are no specific measures for these situations. Article 2 subsection 1 CCP stipulates that, in principle, the trial of a criminal case takes place at the court in the location where the offense was committed or where the suspect resides. This decision does not specifically take the (minor) victim into account

5.8. Is it possible in your country that the interview is conducted virtually (the child and the interviewer are in different places)? In which circumstances? Are any / which special security measures (are) adopted?

As far as we know, the interviews are always conducted in real life and not virtually. As mentioned before (for example in the answer to question 2.4) a child is generally only interviewed once. If the defense attorney wants to pose additional questions to a minor victim, these questions are asked by the same person who initially interviewed the victim, and the interview takes place in the same (studio) interview room. The defense and the examining magistrate can follow the interview via a live connection and can propose additional questions to be asked.



This approach ensures consistency and minimizes the potential stress for the minor by maintaining a familiar setting and interviewer. The use of a live connection allows the defense and examining magistrate to actively participate without being physically present, thus protecting the child from potential intimidation or distress.

5.9. Must a child appear in court to be interviewed or are recorded investigative interviews admitted as evidence in court? If the child has to appear in court, which circumstances are determinant?

Recorded investigative interviews with children are admitted as evidence in court. The child typically does not have to appear in court for a separate interview if the recorded interview provides sufficient evidence. However, if the defense challenges or disputes the recorder interview, the child may be called to testify in court. In complex cases or when the court deems it necessary for a fair trial, the child may be asked to testify in person.

6. Specific legal guarantees for the child

6.1. Does the child have the right to legal assistance? for free? Is this assistance specialized? At what moment does this assistance come in (e.g. already advising whether or not to report a case / during the first interview / only in court / other)

Yes, children have the right to legal assistance in legal proceedings, but in general not for free. It is often provided by lawyers specializing in juvenile law or children's rights. According to art. 2 of the Dutch Legal Aid Act ('Wet op de rechtsbijstand'), everyone has the right to legal aid if they cannot afford legal assistance themselves. Children can receive legal assistance both before reporting, during initial interviews and throughout court proceedings.

6.1.1 What is the role of the legal assistant (representing views of child or best interests of child; advising the child; talking on behalf of the child; ...)?

A legal assistant can have different roles for the child, including but not necessarily limited to:

- Representation of views (and wishes and concerns)



- Protection of best interests, including making decisions and recommendations that promote the child's wellbeing and safety.
- Legal advice, including explaining legal procedures, their rights and options available to them.
- Advocacy in court itself: e.g. presenting evidence, making legal arguments on behalf of the child.
- Working with other professionals such as social workers.

6.2 Does the child have the right to be accompanied by a support person? If so, what is the role of this person? What is this person entitled to do in support of the child?

Yes, the child has the right to be accompanied by a support person. This can be the parent (or guardian), a family member, a victim support worker ('Slachtofferhulp Nederland') or a social worker involved in the child's case. This depends on the child's preference and the nature of the legal situation. The support person should be capable of providing emotional support and need to be trusted by the child.

6.3. What is the role of parents/legal representative?

We think that children in the criminal justice system are often (strongly) depending on their parents/guardians. This can be in several ways:

- A parent/guardian can be a support person (see question 6.2).
- Legal representation (e.g. by hiring a lawyer to represent child's interests)
- Parents may assist the child in making informed decisions regarding legal matters.
- Parents may communicate with legal authorities on behalf of the child.
- Parents may communicate with professionals (such as social workers and educators) on behalf of the child.
- Parents may provide permission/consent for the child in legal proceedings, e.g. signing legal documents on behalf of the child.

6.3.1 When are parents/legal representative excluded (e.g. perpetrator, exploitative, intimidating/influencing, non-supportive, conflict of interests...)?

There are several situations in which parents/guardians may be excluded. This is mostly done when their involvement compromises the child's safety or well-being:

- Conflict of interests.
- Intimidation
- When the parent/guardian is the offender

6.3.2. If excluded, is there another legal representative appointed/ if so by whom?

The judge can appoint a guardian ad litem for the minor victim. The minor victim does have the possibility to request the appointment of a guardian ad litem as well. The court ultimately decides whether to appoint a guardian ad litem based on the best interests of the minor.

6.4. What kind of measures are adopted to grant the right to privacy / confidentiality (public excluded / in all cases / in which cases? press statements so that child can not be identified?)

There are several measures that can be adopted:

- Closed proceedings ('behind closed doors') so the case is not publicly accessible anymore.
- Anonymization in judgements that are published online in the database of the judiciary.

6.5. Is the child allowed to plea for cautionary measures?

Yes, see the answer to question 5.5. The wishes of the victim are always taken into consideration when taking cautionary measures (Crime Victims' Rights Decree, article 10, sub-section 5).

6.6. Does the child have the right to appeal any decision?

No, victims who want to appeal a criminal court decision in the Netherlands depend on whether the prosecution does so (article 404, sub-section 1 CCP).

7. Interviewing structure and procedure



7.1 Who hears the child victim/witness in the pre-trial phase / who in the trial phase? How often is a child usually heard in total (pre-trial and trial)? Does the law limit the total number of interviews/hearings conducted?

A certified studio interrogator hears the child victim/witness in the pre-trial phase. This is a trained police investigator. As mentioned above (section 5, environment) and in the answer to question 8.1, the child is usually only heard once in total.

7.2. Is it mandatory that this professional has specific training for child interviews?

Yes. The investigating officer who conducts the interrogation in a studio has to be certified in the training "Interrogating Young or Vulnerable Witnesses" or is taking this training. This training is offered by the Dutch Police Academy. If the interviewer is still in training, he/she is supervised by a teacher associated with the training course. These conditions also apply to the investigating officer who provides the audiovisual recording of the interrogation.

7.3. Is any kind of interview protocol adopted in your country (pre-trial and/or trial stage)? If so, which one? If so, could you please share it?

There are interview protocols adapted in the Netherlands, but these protocols are not publicly available to us. Research indicates that when interviewing a minor victim, special attention is given to the following factors: allowing the minor to tell their story freely, avoiding suggestive questions, asking open-ended questions, and using child-friendly language (Van Wijk et al. 2018, p. 82).

7.4. Who is allowed to participate in the interview/hearing? Who is sitting in the same room as the child / who is sitting in another room, if any?

Only the interrogator and the child or interpreter, if needed) are present for the interview (in the childfriendly studio). This is to avoid influence on the child (from an investigative perspective). In exceptional cases a support figure can accompany the child. In the so-called control room (with screens) of the interrogation studio, the director who manages



the screens, the reporting officer (who can give instructions to the interrogator) and possibly a behavioral scientist are present.⁸

7.5. Who is addressing the child victim/witness: only the interviewer? cross examination allowed? if only the interviewer, how can other participants ask questions? How is the communication between those who follow the interview and the interviewer? What kind of communication tool is used?

We refer to the answers to the questions 7.4 and 8.1.

7.6. Is the interviewer allowed not to ask the questions raised by others? Is the interviewer allowed to rephrase the questions raised by others?

This is unknown to us.

7.7. Is the interviews audio and video recorded, if so for what purpose (accuracy of statement, use as evidence in court, use in other courts, other)?

The child's interview is usually recorded and can be submitted as evidence in the court (although not shown in public). This is stipulated in article 14 sub-section a of the Crime Victims' Rights Decree. The purpose of recording is also meant to avoid multiple interviews to emotionally relieve the child.

7.7.1. In case the recording is admitted as evidence in court: what protection measures can be applied (e.g. image and voice distortion, child heard in a separate room etc)?

The recording is not shown during the trial in the courtroom. We refer to the answers to question 8.1. and further.

7.8. How is the quality of the recording? In case of failure in the recording, what are the measures adopted?

⁸ P. 89 onderzoek montfoort minderjarige slachtoffers.



This is not entirely clear to us, but we can imagine that the quality is good, since the interrogation rooms have a special camera and a professional is watching in real time from a control room. In the case of a failed recording and the absence of corroborative evidence, it may be necessary for a child minor to be interviewed again.

7.9. If no audio/video recording: is the child allowed to review his or her statements and to correct them? Is the child/legal representative allowed to get a copy of written statement / recording?

To our knowledge, this is not possible and is not done in practice. Research (Van Wijk et al. 2018, p. 51) only indicates that studio interviewers are required to send the report of their studio interview to a supervisor, so that the interview can be reviewed to improve quality.

7.10. If there is a special procedure for hearing child victims and witnesses, is it mandatory for the child to participate in such a way or has he/she the right to choose to be heard as any other victim or witness? Are there still adaptations in this case?

It is not mandatory for the child to participate. As mentioned above (in the answer to question 3.5) the certified interrogator who interviews the child visits the child's home to assess whether the child understands what they can testify about and if they are willing to testify/participate.

8. Offender's right during or after the interview

8.1. Is the alleged offender allowed to participate in the interview of the child witness? Is his/her defence attorney allowed to participate? Is participation of either of the two mandatory?

The alleged offender does not participate in the interview of the child. As mentioned before (for example in the answer to question 2.4) a child is generally only interviewed once. If the defense attorney wants to pose additional questions (after the first interview) to a minor victim, because they haven't had the opportunity before, it is carefully examined whether it is necessary to hear a child again. If that is the case, these questions are asked by the same person who initially interviewed the victim, and the interview takes



place in the same (studio) interview room. The defense attorney can follow the interview via a live connection and can propose additional questions to be asked by the interrogating investigation officer (Guideline sexual offences, paragraph 4.4/Aanwijzing Zeden). This allows the defense to actively participate without being physically present, thus protecting the child from potential intimidation or distress (Van Wijk et al. 2018, p. 23).

8.2. If the offender is not present during the interview, how can he or she make additional questions to the child? How can he or she contradict the child's statements?

See the answer to question 8.1.

9. Parallel proceedings – coordination

9.1. In case of parallel proceedings (such as in family or child protection procedures) based on the same facts, is it clear who has the priority to conduct the interview?

If there has not yet been a report to the police, but, for example, a report of child abuse has been made to Safe Home and a criminal offense is suspected, Safe Home ensures that the police are called in as soon as possible to conduct the interview. Therefore, it can be assumed that the police has the priority to conduct the interview. The premise here is that evidence often can only be collected once and that the police have the best expertise to do so.

9.2. Is there any coordination procedure between different courts/authorities? How is the coordination procedure?

Yes, see the answer to question 2.2.

9.3. If another court/authority has not participated in the interview and needs additional information, is this court/authority allowed to interview the child again? And/or can interviews be shared (who can share with whom)?

In general, an audiovisual recording is made of the interview with the minor victim (in the child-friendly studio). To protect the privacy of the child, the recording does not get shared with the defense attorney. However, if necessary, the defense can view the



recording at a police station or at the office of the examining magistrate. The recording can be viewed by the court in cases where it needs to. Paragraph 4.4 of the Guidelines sexual offences (Aanwijzing Zeden) stipulates that the prosecutor always opposes the showing of the recording publicly during the trial.

10. Training

10.1. Are judges and magistrates trained to deal with child victims?

In order to become a judge in the Netherlands, one has to complete legal education, gaining practical legal experience, and passing examinations administered by the Judiciary Selection Committee. In addition, Victim Support Services ('Slachtofferhulp Nederland') has a strategic partnership (named 'Victim Support Academy' or in Dutch: De Slachtofferhulp Academie) with the Academy for Judicial Training ('Studiecentrum voor Rechtspleging' or 'SSR'). The Victim Support Academy develops and offers courses together with the SSR around dealing with victims (child victims as well) in the criminal process. Examples of [courses](#) are:

- *Treatment of Victims at Trial - for Judges and Magistrates*: This course is mandatory for judges in training and aims to provide them with knowledge and skills to (actively) take the impact of the crime and the criminal process on a victim during the trial into consideration. For examples, it trains judges to approach the victim correctly and with empathy. The course also gives (future) judges insight into the psychological effects of victimization in general and the (possible) effects of it for the trial;
- *Treatment of Victims by Victim Coordinators*: This course is specifically designed for victim coordinators (they have an essential role in supporting victims in exercising their rights) from the Public Prosecution Service. The course aims to help victim coordinators develop themselves as experts in treating victims well and communicating with them in an appropriate and understandable manner, ensuring that victims feel acknowledged and heard.

10.2. Is the content of the training interdisciplinary? Do other professionals also participate in the same training?

Yes, the Academy for Judicial Training ('Studiecentrum voor Rechtspleging', or SSR) is the study center for the judiciary and the Public Prosecutor Service. Here, trainings and



workshops are organised for judges, prosecutors, and lawyers and other legal professionals as well. It is a good way to meet, network and interact with each other. Each training (webinar/course) or workshop has its own ‘theme’, for example domestic violence, violence against children or cases of sexual offenses.

11. Reforms in progress

11.1. Are there reforms in progress in your country regarding child’s victim rights, the procedure among others? What is the aim and the main subject of it?

It seems that victims’ rights in the Netherlands are evolving. For example, in 2021, a law to expand victims’ rights was accepted. This includes victims’ rights for children. The forthcoming CCP (2029) intends to place a greater emphasis on the victim's position compared to the current law.⁹ In addition, the new sex crimes law (wet seksuele misdrijven) was recently (July 2024) introduced into the criminal code. This law strengthens the criminal protection of victims of sexual violence and inappropriate sexual behavior and is updated to better address inappropriate behaviour that occurs online. Victims can now report rape and sexual assault in more cases. Public sexual harassment is also punishable and sex chatting (i.e. the sexual approach of children under the age of 16, as well as the sexual approach of 16 and 17-year-old ‘vulnerable’ children) is criminalized. This allows for earlier action in the initial stages of actual sexual abuse. Furthermore, the maximum penalties for certain offenses are increased.

In our opinion, it seems that both politicians and policy makers have increasing recognition and support for (child) victims. However, one can note differences between cities (municipalities) in the Netherlands. In the two largest cities of the Netherlands, Amsterdam and Rotterdam, for example, in Rotterdam, several projects have been developed for child victims. This includes Via225 (see question 2.2) and ‘handle with care’. The latter is a new initiative aimed at improving the response and support for children who are affected by domestic violence or other traumatic events. Simply put, the police send the child's school or childcare institution a brief notification without specific

⁹ *Parliamentary Papers II 2022/23*, 36327, no. 3, p. 94.



details that could compromise the child's privacy. However, due to the notification, the school can be alert that the child may need additional support.

Although these are not all necessarily legal developments, it does help in supporting the child victim according to victims' rights. However, it should be noted that such initiatives are not nationwide (yet).