

Universal Periodic Review (41st session)

Contribution of UNESCO

The Netherlands

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance, or succession</i>	<i>Declarations /Reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education 1960	Ratified in 1966	Reservation to this Convention shall not be permitted		Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratification on 26 August 1992 Committee Member (2003-2007)			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification on 15 May 2012 Committee Member (2018-2022)			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Accession on 09 October 2009			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The Constitution of the Netherlands¹ does not explicitly enshrine the right to education but only states that education shall be a constant concern of the Government (article 23.1). According to the Compulsory Education Act², compulsory education has a duration of twelve years in the Netherlands, ending at the age of sixteen and covering primary and secondary education. If the compulsory education period is over and the youth does not have a diploma, there is a qualification obligation until the youth turns 18 or obtains a basic qualification (HAVO, VWO, MBO2 or higher). The Primary Education Act³ specifies that admission may not be dependent on a financial contribution from the parents (article 40).

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

2. Press freedom and freedom of expression are protected by the Constitution⁴ in article 7, which also states that “no one shall require prior permission to publish thoughts or opinions through the press, without prejudice to the responsibility of every person under the law.”
3. The right to access information is explicitly mentioned in article 110 of the Constitution.⁵ In addition, there is an Act on public access to information of public authorities, titled the ‘Wet Openbaarheid van Bestuur’ (The Government Information (Public Access) Act Amended in 1991).⁶ The Act allows any person to demand information from public authorities, though respecting State security and privacy (Chapter V, Section 10). In case the public authority rejects the demand, the applicant can appeal.

¹ <http://www.unesco.org/education/edurights/media/docs/70bc60af539305921db477117e5505d6fb474ad4.pdf>

² <http://www.unesco.org/education/edurights/media/docs/69e2257fdb2c36085cd35970c3a10bc355971d92.pdf>

³ <http://www.unesco.org/education/edurights/media/docs/17bafa764b38231f5762aa72de1d87a48bd26074.pdf>

⁴ https://www.constituteproject.org/constitution/Netherlands_2008?lang=en

⁵ Ibid.

⁶ <http://hrlibrary.umn.edu/research/Netherlands/Act%20containing%20regulations%20governing%20Public%20Access%20to%20Government%20Information%201991.pdf>

4. The Netherlands did not respond to UNESCO's annual survey (2021) aimed to assess implementation of right to information (RTI) guarantees, mandated by the Decision on Monitoring and Reporting on SDG Indicator 16.10.2 (on public access to information) adopted by the Intergovernmental Council of the International Programme for the Development of Communication at its 31st session in November 2018.
5. Defamation is criminalized according to Part XVI of the Penal Code⁷, and can be punished with a fine or a term of imprisonment not exceeding two years (article 261 – 266). If the defamation is made in regard of “the public authorities, a public body or a public institution, a civil servant during or in connection with the lawful performance of their office, or the head or a member of the government of a friendly nation” (article 267), the terms of imprisonment can be increased by one third. Since 2014 and 2020 respectively, blasphemy and lèse-majesté no longer constitute criminal offences.
6. Media is further regulated in the Media Act 2008⁸ and the Media Regulation 2008⁹, regarding print media and the organization of the broadcasting system. In 2018, the Source Protection Act in Criminal Cases entered into force, providing strengthened protection for the confidentiality of journalists' sources.

Implementation of the law:

7. The regulator for audiovisual media services, the Commissariaat voor de Media (CvDM)¹⁰ is an independent administrative authority established by statute under the Media Act 2008 as a public entity with legal personality. It has a statutory obligation to publish its decisions and is considered to be transparent. The Commission allocates broadcasting time to national, regional and local public media, and issues licenses for commercial stations.
8. The Press Council in the Netherlands is established and maintained by the foundation ‘Stichting Raad voor de Journalistiek’ (RVJ)¹¹, which functions independently from the state. It is entrusted with the examination of complaints against violations of good journalistic practice. The Netherlands Union of Journalists and the Netherlands Society of Chief-Editors are members, as well as representatives from both printed and broadcasting media. The board of the foundation appoints the members of the

⁷ http://www.ejtn.eu/PageFiles/6533/2014%20seminars/Omsenie/WetboekvanStrafrecht_ENG_PV.pdf

⁸ <http://www.wipo.int/edocs/lexdocs/laws/nl/nl/nl076nl.pdf>

⁹ <http://wetten.overheid.nl/BWBR0025040/2014-10-01>

¹⁰ <http://www.cvdm.nl/>

¹¹ <https://www.rvdj.nl/>

Press Council and also determines the regulations of the Press Council.

Safety of journalists:

9. As at 17 February 2022, UNESCO has recorded the killing of one journalist in the country since 2006, when the organization began systematic monitoring. This killing occurred in early 2021. The Netherlands will be requested to provide information on judicial follow-up on the case in the framework of the 2022 UNESCO Director-General's Report on the Safety of Journalists and the Danger of Impunity.
10. Following the constitution of the Steering Group on Aggression and Violence against Journalists, consisting of the public prosecution service, the police, the Society of Editors-in Chief and the Association of Journalists, in 2018, the 'PersVeilig' protocol was installed in 2019 aiming at reducing threats, violence and aggression against journalists. The PersVeilig protocol is aligned with the Council of Europe Recommendation on the protection of journalism and safety of journalists and other media actors (2016)¹².

III. Review and specific recommendations

A. Education

New legislation and policies in education

- According to the State's report for the UNESCO 10th Consultation on the Convention against Discrimination in Education (CADE), there is a new citizen bill for primary and secondary education. This amendment to the legal provisions prescribes that education promotes citizenship and what citizenship education must entail. The bill also creates a duty of care for schools. Schools must ensure that teachers act in accordance with democratic rule of law values. They must also ensure that pupils can practice dealing with these values at school.¹³
- During the last UPR cycle, the Netherlands was recommended to pursue efforts to address and study academic failures in the secondary schools of children from disadvantaged socioeconomic environments (131.134). The State has recently reported that it is planning to launch a policy agenda to combat segregation in primary

¹² https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016806415d9#_ftn1

¹³ The Netherlands' report for the UNESCO 10th Consultation on the implementation of the CADE.

and secondary education. “The aim for schools is to become more mixed to foster contact between children with a high socio-economic status and a lower economic status come into contact with each other, thereby aiming to promote increased understanding of one another”.¹⁴

Age of marriage

- The minimum age of marriage is 18 years old for both boys and girls. However, if a girl is pregnant or has given birth and both persons are above 16, there is no impediment to a marriage. The Minister of Justice can also, for compelling reasons, grant an age dispensation, but no absolute minimum age has been identified. If someone under 18 marries or has married abroad, the government will not recognize the marriage until both partners have reached the age of 18. According to the Joint CEDAW-CRC General Recommendation/Comment, capable child below the age of 18 may be allowed to get married provided that the child is at least 16 years old and that such decisions are made by a judge based on legitimate exceptional grounds defined by law and on the evidence of maturity without deference to cultures and traditions.¹⁵

Violence in schools

- As in the previous UPR cycle, Netherlands could be encouraged to continue to implement relevant legislation and policies to combat bullying in schools (131.135), notably the law adopted in 2015 to ensure safety at school, which includes provisions on bullying.

Digital education

- UNESCO’s Initiative on the [Evolving Right to Education](#) raises the risks that learners encounter in the digital environment. The Netherlands adopted the ‘Implementation Act’ as the local implementation of the EU GDPR and established a data protection authority (AP). AP recently published several recommendations including for privacy in digital homeschooling¹⁶ and the use of personal data in education.¹⁷

¹⁴ Ibid

¹⁵ Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices, Doc. CEDAW/C/GC/31-CRC/C/GC/18, 2014, para. 20, accessible at :

https://reliefweb.int/sites/reliefweb.int/files/resources/CEDAW_C_GC_31_CRC_C_GC_18_7557_E.pdf

¹⁶ <https://autoriteitpersoonsgegevens.nl/nl/nieuws/aanbevelingen-voor-privacy-bij-digitaal-thuisonderwijs>

¹⁷ <https://autoriteitpersoonsgegevens.nl/nl/onderwerpen/onderwijs/gebruik-van-persoonsgegevens-het-onderwijs>

COVID-19 pandemic:

- The Netherlands closed its schools for 31 weeks since the beginning of the COVID-19 pandemic.¹⁸ After a two weeks lockdown at the end of 2021 due to the Omicron variant, primary and secondary schools reopened early January while vocational schools and universities had online classes until mi-January, before fully reopening.

Specific recommendations:

11. The Netherlands should be encouraged to:
 - Envisage amending the Constitution to explicitly guarantee the right to education.
 - Enshrine an absolute minimum age for marriage even for exceptional cases.
 - Continue its efforts to maintain schools opened despite the ongoing sanitary crisis.
 - Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.
 - Share with UNESCO any relevant information to update its country profile on UNESCO's [Observatory on the Right to Education](#) and [Her Atlas : Monitoring of the right to education for girls and women](#).

B. Freedom of opinion and expression

12. It is recommended that The Netherlands decriminalize defamation and place it within a civil code that is in accordance with international standards.¹⁹
13. The country is encouraged to co-operate with UNESCO's annual survey instrument to measure global progress on access to information and consider including relevant information in their Voluntary National Reviews on SDG implementation.

¹⁸ <https://en.unesco.org/covid19/educationresponse#schoolclosures>

¹⁹ See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe.

14. The Netherlands, through its justice system, is urged to investigate the case of a killed journalist, and to voluntarily report on the status of judicial follow-up to UNESCO. The Government may wish to consider taking advantage of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity as a means to strengthen protection of journalists and freedom of expression.

C. Cultural Rights

15. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), The Netherlands is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions which are conducive to the realization of the right to take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, The Netherlands is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and civil society organizations as well as vulnerable groups (minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

16. The Netherlands submitted its National Report on the implementation of the Recommendation on Science and Scientific Researchers (2017) for the consultation period from 2018 to 2021. The aim of this monitoring exercise is to record implementation actions, especially noting legislative or other measures adopted by UNESCO Member States with the aim to ensure application of these norms and standards in national law, policy and practice paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research,

expression and publication, etc.) as well as human rights obligations related to the practice of science generally; the human rights related to access to and uses of scientific knowledge through education; the principle of non-discrimination, requiring in this case active promotion of women and girls entering scientific careers, as well as protections for human rights of human subjects of research.

17. The national report of the Netherlands indicates that significant action has been taken in relation to all ten key areas of the 2017 Recommendation, with the latter included as an international standard-setting reference, including:

- the Netherlands Code of Conduct for Research Integrity (2018),
- the National Action Plan for Greater Diversity and Inclusion in Higher Education and Scientific Research (2019),
- The Rathenau Institute report 'Kennis in het vizier' on the consequences of the digital arms race for public knowledge infrastructure (2019)
- The Rathenau Institute report 'In open science toont zich de meester' on public involvement in education research (2020);
- the National Science Agenda; and,
- the National Action Plan for greater diversity and inclusion in higher education and research (2020) that covers inclusive, diverse and safe learning and working environments.

18. Against this background, the Netherlands is encouraged to expand the input on issues covered by the 2017 Recommendation in its national report to the UPR to allow further discussions thereon at the Human Rights Council and the formulation of specific recommendations. Additionally, the Netherlands is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers.