****

**Netherlands Institute for Human Rights**

**Written submission**

to the 28th session of the Committee on the Rights of Persons with Disabilities for the benefit of the forthcoming general discussion on persons with disabilities in situations of risk and humanitarian emergencies (Art. 11)

**February 2023**

**Introduction**

1. The Netherlands Institute for Human Rights (hereafter: the Institute) is an independent body established by law. Its objectives are set out in the Netherlands Institute for Human Rights Act of 2012 (hereafter: the Act): to protect human rights in the Netherlands, to increase awareness of these rights and to promote their observance. The Institute is the A-status National Human Rights Institution (NHRI) in the Netherlands.
2. The mandate of the Institute is set out in the said Act, *inter alia*: to investigate and to conduct research, to report and issue recommendations on protection of human rights and to cooperate with national, European and other international institutions engaged in the protection of human rights. Furthermore, the Institute is the national independent monitoring body under Article 33(2) of the Convention on the Rights of Persons with Disabilities (hereafter: CRPD). In light of this latter mandate, the Institute submits written comments for the benefit of the Committee’s forthcoming general discussion on the rights of persons with disabilities in situations of risk and humanitarian emergencies.
3. In 2018, the Institute has submitted its report concerning the initial report of the Netherlands to the Committee on the Rights of Persons with Disabilities (hereafter: CPRD-committee).[[1]](#footnote-2) In this report, the Institute has addressed several issues related to the rights of persons with disabilities in situations of risk and humanitarian emergencies. In 2019, in its annual report on the implementation of the CRPD, the Institute has underlined the responsibility of providers of goods and services to make the information about what to do in emergency situations accessible to persons with disabilities.[[2]](#footnote-3) Moreover, in 2020 the Institute has contributed to the report ‘Thinking through COVID-19 scenarios: a guide to necessary choices’.[[3]](#footnote-4) In this report, the Institute has underlined, *inter alia*, the importance of paying specific attention to the position of persons with disabilities during the pandemic.[[4]](#footnote-5) On its website, the Institute has also written about the importance of access to information and communication for persons with disabilities during emergency situations.[[5]](#footnote-6) More recently, the Institute has submitted its additional report to the Committee, which includes additional information on the status of the implementation of the CRPD in the Netherlands. The report complements the report submitted by the Institute in 2018 concerning the initial report of the Netherlands. In its report, the Institute has outlined several concerns regarding the rights of persons with disabilities in the context of the covid-19 pandemic.[[6]](#footnote-7)
4. The present input is based on the information and findings in the aforementioned reports. In this written submission, the Institute will provide comments on the topic of States parties obligations under Article 11 CRPD. In addition, the Institute will discuss the relationship with other provisions of the CRPD.

**States parties obligations**

1. Accessibility is one of the fundamental principles of the CRPD, as laid down in Articles 3 and 9 of the Convention. States parties must take appropriate measures to ensure accessibility for persons with disabilities on an equal footing with others. This includes the accessibility of information and communication. During times of risk or humanitarian emergencies, it is crucial that information and communication is accessible to persons with disabilities. States parties are obliged to take measures to ensure accessible information and communication for people with different types of disabilities. For example, for persons with hearing disabilities, sign language or writing interpretation should be provided. In this regard, the Institute makes reference to an example that occurred in the Dutch context, where in March 2020, during a national live press conference on the covid-19 virus, the government did not provide sign language interpretation. This was held not to be in line with its obligations under the Convention.[[7]](#footnote-8)
2. Individual autonomy, including the freedom to make one’s own choices, like accessibility, is a fundamental principle of the CRPD. This means that people with disabilities (hearing or other disabilities) should be able to access information independently. Therefore, the measures that States parties take to make information accessible to persons with disabilities in risk situations should aim at independent access to information. Access to information through family or friends is not independent access. The Institute has received several complaints regarding this issue in the Netherlands. For example, in the context of a mass shooting in the city of Utrecht in 2019, the Institute received various complaints from persons with hearing disabilities concerning the lack of independently accessible information.[[8]](#footnote-9)
3. Pursuant to Article 9 CRPD, States parties are obliged to take appropriate measures to ensure that private providers of goods and services take accessibility into account. The Institute emphasises the importance of the role of private providers in ensuring information on emergency situations is accessible to persons with disabilities.[[9]](#footnote-10)
4. Policy and legislative measures addressing situations of risk or humanitarian emergencies, including health emergencies, should pay specific attention to the position of persons with disabilities. In its advisory opinions on (draft) legislative measures to combat the pandemic in the Netherlands, the Institute has pointed this out repeatedly. For example, in relation to the accessibility of (IT) applications or access to goods and services for persons that cannot be vaccinated, tested, or wear a facemask, and the availability of accessible information (as discussed in the previous paragraphs).[[10]](#footnote-11) When States parties do not consider the position of persons with disabilities, persons with disabilities may not fully enjoy their rights. For example, if persons with disabilities who cannot be vaccinated or tested are not granted an exemption, they might be banned from certain locations, and therefore hindered in exercising their right to education (article 24 CRPD), work and employment (Article 27 CRPD), or participation in cultural life, recreation, leisure and sport (Article 30 CRPD).
5. The Institute also wishes to emphasize the importance of the obligation under Article 4(3) CRPD to closely consult with and actively involve persons with disabilities in the development and implementation of legislation and policies concerning persons with disabilities. As the CRPD-committee has explained before, effective participation means consultation based on transparency, mutual respect, meaningful dialogue and a sincere aim to reach a collective agreement. Consultation should not be a mere formality.[[11]](#footnote-12) The Institute has observed that for a meaningful dialogue to exist, proper feedback, explaining choices made and reflecting on input by persons with disabilities, is necessary indeed.[[12]](#footnote-13)

**Relationship with other provisions of the CRPD**

1. As discussed in the previous paragraphs, Article 11 on the rights of persons with disabilities in situations of risk and humanitarian emergencies is closely connected to the general principles laid down in Article 3 of the CRPD. A lack of protection and safety for persons with disabilities in situations of risk hinders their full and effective participation in society. Moreover, the protection and safety of persons with disabilities in situations of risk is necessary to safeguard their inherent dignity and individual autonomy.
2. Building on its comments under paragraphs 5, 6 and 7, the Institute points at the link with the right to access to information (as laid down in Article 21 CRPD). During times of risk and humanitarian emergencies, States parties must take measures to provide information intended for the public in a timely manner and at no additional cost, in accessible formats and with technologies appropriate to different types of disabilities.
3. Article 11 is also connected to the right to health (Article 25). During times of risk, such as a health emergency, States parties have an obligation to take measures to ensure the right to health for persons with disabilities. The principle of nondiscrimination, as laid down in Article 5 CRPD, requires States parties to pay specific attention to the situation of persons with disabilities when designing policies and health protection measures. As described in paragraph 8, a lack of consideration of the position of persons with disabilities may lead to the infringement of several rights under the Convention. These rights are not exhaustively listed here.
1. Netherlands Institute for Human Rights (NIHR), *Submission to the committee on the rights of persons with disabilities concerning the initial report of the Netherlands,* March 2018 (available at [Rapportage aan het Comité voor de rechten van personen met een handicap 2018 | Mensenrechten](https://mensenrechten.nl/nl/publicatie/5c051025c155b7037d1ec495)). [↑](#footnote-ref-2)
2. NIHR, *Jaarlijkse rapportage over VN-verdrag voor de rechten van personen met een handicap 2019* [Annual report on the implementation of the CRPD 2019], *December 2019* (available at <https://publicaties.mensenrechten.nl/publicatie/695c0934-cb85-42f6-ada9-bfa89a148064>). [↑](#footnote-ref-3)
3. Netherlands Scientific Council for Government Policy, *Thinking through COVID-19 Scenarios: A Guide to Necessary Choices*, November 2022 (available at: <https://english.wrr.nl/latest/news/2022/11/16/a-future-proof-covid-policy-calls-for-action-based-on-different-scenarios>). [↑](#footnote-ref-4)
4. NIHR, *Toekomstbestendig coronabeleid vraagt om actie via doordenken scenario’s* [Future covid-policies require thinking through of scenarios’], september 2022, (available at <https://www.mensenrechten.nl/actueel/nieuws/2022/09/05/toekomstig-bestendig-coronabeleid-vraagt-om-actie-via-doordenken-scenarios>). [↑](#footnote-ref-5)
5. NIHR, *Toegankelijke informatie en communicatie in risicovolle situaties* [Accessible information and communication in situations of crisis], February 2020. (available at: <https://www.mensenrechten.nl/actueel/toegelicht/toegelicht/2020/toegankelijke-informatie-en-communicatie-in-risicovolle-situaties>). [↑](#footnote-ref-6)
6. NIHR*, Additional Report to the committee on the rights of persons with disabilities concerning the initial report of the Netherlands*, February 2022 (available at: <https://publicaties.mensenrechten.nl/publicatie/6200da3c20f34f5d83620f9f>) [↑](#footnote-ref-7)
7. NIHR, *Toegankelijke informatie en communicatie in risicovolle situaties* [Accessible information and communication in situations of crisis], February 2020. (available at: <https://www.mensenrechten.nl/actueel/toegelicht/toegelicht/2020/toegankelijke-informatie-en-communicatie-in-risicovolle-situaties>). [↑](#footnote-ref-8)
8. NIHR, *Toegankelijke informatie en communicatie in risicovolle situaties*, February 2020. (available at: <https://www.mensenrechten.nl/actueel/toegelicht/toegelicht/2020/toegankelijke-informatie-en-communicatie-in-risicovolle-situaties>). [↑](#footnote-ref-9)
9. NIHR, *Annual report on the implementation of the CRPD 2019, December 2019* (available at <https://publicaties.mensenrechten.nl/publicatie/695c0934-cb85-42f6-ada9-bfa89a148064>). [↑](#footnote-ref-10)
10. NIHR*, Additional Report to the committee on the rights of persons with disabilities concerning the initial report of the Netherlands*, February 2022 (available at: <https://publicaties.mensenrechten.nl/publicatie/6200da3c20f34f5d83620f9f>). [↑](#footnote-ref-11)
11. CRPD, *General comment no. 7 on the participation of persons with disabilities, including children with disabilities, through their representative organizations, in the implementation and monitoring of the convention*, CRPD/C/GC/7, 21 September 2018, paras 47-48. [↑](#footnote-ref-12)
12. NIHR, *Participatie van mensen met een beperking bij de totstandkoming van wetgeving en beleid. Jaarlijkse rapportage over de naleving van het VN-verdrag handicap in Nederland 2020* [Participation of persons with a disability in the development of legislation and policies. Yearly monitor on the implementation of the CRPD in the Netherlands 2020], December 2020, p. 32. [↑](#footnote-ref-13)