

The Netherlands: Surrogacy

A surrogate mother is a woman who has become pregnant with the intention of giving birth to a child on behalf of someone else (the 'intended parent'), who wishes to exercise parental responsibility for the child, or to take on the child's care and upbringing on a permanent basis.

If the intended parents have taken on the care and upbringing of the child concerned, they must report this to the executive of the municipality in which the child is resident (section 5 of the Foster Children Act). If the intended parents wish to adopt a child under six months of age who was born to a surrogate mother, they require prior written consent from the Child Protection Board. Failure to obtain this consent is a criminal offence (article 442a of the Criminal Code; article 151a of the Criminal Code). Furthermore, in such a case, the Child Protection Board may ask the a court order to appoint a temporary guardian for the child (*voorlopige voogdij*) (article 1:241, paragraph 3 of the Civil Code).

In all reported cases in which the mother gives her child up to someone else, including relinquishing it in the context of surrogacy in the Netherlands, the Child Care and Protection Board conducts an investigation.

If the child is incorporated into the intended family in accordance with the formal criteria ('Standards 2000') and there are no contraindications, the Board can be asked to seek a court order relieving the mother/parents of her/their parental responsibility to pave the way for the assignation of parental responsibility to, and adoption by, the intended parents. In the Netherlands the principle of *mater semper certa est* applies.

If the intention of relinquishing the child to another person was formed not before but during the pregnancy, the situation is as described in chapter 4.1 of the Board's 'Standards 2000' with the accompanying methods and conditions.

When the intended parents are resident in the Netherlands and the surrogate mother is resident in another country, the Parentage (Conflict of Laws) Act is in principle applicable.

Commercial surrogacy is prohibited by law under article 151b of the Criminal Law. This includes a provision making it an offence to provide any professional or commercial mediation in this matter or to publicise the fact that a woman wishes to be a surrogate mother or is available as such.

4.8 INTERNATIONAL ASSISTANCE IN RESPECT OF THE OPTIONAL PROTOCOL

Question: Please provide information on measures taken to strengthen international assistance in connection with investigative, criminal and extradition proceedings brought in respect of the offences covered by the Optional Protocol.

The Netherlands: The Netherlands has launched an initiative within the EU to improve cooperation with the seven EU member states of northwest Europe to clamp down on trafficking in human beings, with special attention being paid to unaccompanied minor aliens from Nigeria. In addition, the Netherlands has taken the initiative to engage in bilateral cooperation with the main countries of origin of the victims of human trafficking (Romania, Bulgaria and Nigeria).

4.9 SPECIAL TRAINING FOR PROFESSIONALS

Question: Please indicate whether special training, particularly social and psychological, is provided to persons working in the area of recovery and social reintegration of child victims of the offences under the Optional Protocol.

The Netherlands: There are three channels along which professionals working in the field of youth care are equipped to perform their tasks.

- A Professionalisation Steering Committee has been set up to further professionalise youth care.
- The trend is increasingly to work with methods of proven effectiveness, including specific ways of tackling child abuse. These methods have been (and will continue to be) incorporated into the database of effective methods maintained by the Netherlands Youth Institute. The methods include the proper deployment and preparation of those professionals who are to apply them.
- Institutions dealing with the specific problems addressed in the Optional Protocol use peer supervision and coaching, including social and psychological support.
- One aspect of the regional introduction of the action plan to tackle child abuse is education/training for professionals working with families and children. Together with a private company (the Augeo Foundation), the authorities are developing digital training methods for identifying child abuse. Various ministries are working to make awareness of child abuse and domestic violence an integral part of professional training. A national conference was recently held on this subject (8 October 2008).

4.10 SYSTEMATIC INVESTIGATION ABOUT COMMERCIAL SEXUAL EXPLOITATION IN ARUBA

Question: Please advise if any systematic investigation has been undertaken to obtain information about the existence of commercial sexual exploitation of children in Aruba.

Aruba: A recently conducted analysis about crime and criminal activities in Aruba (criminaliteitsbeeld onderzoek 2007) concluded that there are no concrete indications of human trafficking in Aruba. The Public Prosecutor's Office has not brought to trial any cases of human trafficking, nor have there been any complaints submitted in this regard.

4.11 EDUCATION CONCERNING SEXUAL EXPLOITATION IN SCHOOL CURRICULA

Question: Please advise if education concerning sexual exploitation has been included in the school curricula.

The Netherlands: The government does not make it mandatory for schools to provide lessons on children's rights (including matters of sexual exploitation as referred to in the Optional Protocol). Since the government does consider it important for children to be taught about these issues, however, the Ministry provides a grant to the Coalition for Children's Rights, an NGO which disseminates information and teaching materials on the subject.