



Sixth periodic report

**KINGDOM  
OF THE NETHERLANDS**

**International Covenant on Economic, Social and Cultural Rights**

***February 2016***

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## **1. General introduction**

1. The Kingdom of the Netherlands ratified the International Covenant on Economic, Social and Cultural Rights on 11 December 1978. The Covenant entered into force in all parts of the Kingdom on 11 March 1979.
2. The Committee on Economic, Social and Cultural Rights considered the combined fourth and fifth periodic reports of the Kingdom of the Netherlands at its 43rd, 44th and 45th meetings, held on 10 and 11 November 2010. The concluding observations of the Committee are contained in doc E/C.12/NDL/CO/4-5. This sixth report by the Kingdom of the Netherlands is submitted in accordance with Articles 16 and 17 of the Covenant. It updates previous reports and describes policy measures taken to implement the recommendations of the concluding observations of 2010.

### *New constitutional structure of the Kingdom*

3. On 10 October 2010 the amended Charter for the Kingdom of the Netherlands entered into force, changing the constitutional structure of the Kingdom. Since that date, the Netherlands Antilles has ceased to exist as a country. Under the new structure, Curaçao and Sint Maarten have acquired the status of countries within the Kingdom, similar to Aruba, which has held the status of country within the Kingdom since 1986. As a result, since 10 October 2010 the Kingdom has consisted of four countries of equal status: the Netherlands, Aruba, Curaçao and Sint Maarten. International treaty obligations are binding on the Kingdom as a whole and the Kingdom can be held accountable under public international law. However, the countries within the Kingdom have a large degree of internal autonomy and each of the four countries is autonomous when it comes to the implementation of the Covenant. Apart from the general introduction, this report therefore consists of four parts, describing the situation in each of the four countries of the Kingdom.

4. The three islands of Bonaire, St Eustatius and Saba opted for direct ties with the Netherlands and now constitute 'the Netherlands in the Caribbean' / 'the Caribbean Netherlands'. These ties took their new legal form with the conferment of the status of public bodies within the meaning of Article 134 of the Constitution of the Netherlands. Bonaire, St Eustatius and Saba therefore form part of the Dutch polity with their status roughly equivalent to that of a municipality in the Netherlands, with some adjustments. In the Caribbean Netherlands rules may be different from the European part of the Netherlands in view of their economic and social circumstances or other factors that distinguish them from the Netherlands in Europe.

***Recommendation 5 on equal economic, social and cultural rights for all individuals and groups in the territory of the State***

5. The International Covenant on Economic, Social and Cultural Rights is in force in all parts of the Kingdom. Every country in the Kingdom has an individual responsibility to realise human rights in the country, and has its own institutions to monitor the situation.

## **2. The Netherlands**<sup>1</sup>

### *2.1 Introduction*

6. This part of the report was written by a team from the Ministry of Social Affairs and Employment, the Ministry of Foreign Affairs, the Ministry of Health, Welfare and Sport, the Ministry of Security and Justice, the Ministry of Education, Culture and Science and the Ministry of the Interior and Kingdom Relations. The draft was presented to the social partners in the Netherlands and to the Dutch Section of the International Commission of Jurists (*Nederlands Juristen Comité voor de Mensenrechten*) for consultation.

***Recommendations 8 and 9*** on increasing the public's awareness of economic, social and cultural rights, and providing systematic training for members of all professions and sectors that play a direct role in the promotion and protection of the rights contained in the Covenant

7. The government considers it essential to provide information and education about human rights and to raise awareness of this issue. This applies to government bodies as well as to the public at large. The National Action Plan on Human Rights sets out to contribute to this (see also par. 14).
8. General information about fundamental and human rights can be found (in Dutch) on the website [www.rijksoverheid.nl](http://www.rijksoverheid.nl) and on the website [www.nederlandrechtsstaat.nl](http://www.nederlandrechtsstaat.nl), which has been supported financially by the Ministry of the Interior and Kingdom Relations.
9. The Academy for Legislation and the Academy for Government Lawyers offer general modules on human rights for public servants. This represents an investment in the quality of primary legal advice and ensures that every policy directorate is able to recognise basic human rights issues as such. The Ministry of the Interior and Kingdom Relations has drafted guidance (*Handreiking*

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<sup>1</sup> Including the Caribbean Netherlands.

Economische en Sociale rechten) to ensure compliance with social and economic rights in policy and legislation.

10. The Training and Study Centre for the Judiciary, which trains judges and other judicial officers, provides continuous training designed to enhance knowledge of human rights.
11. Under the Counsel Act (*Advocatenwet*), the details of legal training are left entirely to the Dutch Law Society (*Nederlandse Orde van Advocaten*, NOvA). Legal training includes the opportunity to take human rights courses.
12. Finally, primary, secondary and vocational teacher training courses cover the subject of citizenship. Citizenship education is designed to prepare pupils for participation in society, and addresses cognitive aspects such as knowledge of democracy, the rule of law and human rights, and also skills like debating and attitudes such as respect for the views and beliefs of others. The documents setting out the knowledge covered in social studies teacher training therefore also cover human rights. The generic knowledge components for primary school teacher training and all grade-two teacher training feature a broad focus on citizenship. It is the statutory duty of the Netherlands Institute for Human Rights to 'provide information and to promote and coordinate education on human rights' (section 3d of the Act establishing the Netherlands Institute for Human Rights (*Wet College voor de Rechten van de Mens*)).

***Recommendation 39*** on the wide dissemination of the committee's concluding observations.

13. It is standard policy for a copy of periodic reports submitted to the UN human rights bodies to be sent to the Dutch Parliament for information purposes. Equally, concluding observations by the human rights bodies and an appreciation of the recommendations contained therein are submitted to parliament. Once submitted in this manner, these documents acquire the

status of parliamentary papers and as such are available to the public on various websites.

## *2.2 National human rights policy*

### ***Recommendation 7 on the National Action Plan on Human Rights.***

14. On 10 December 2013, the Dutch Minister of the Interior and Kingdom Relations presented the Netherlands' first National Action Plan on Human Rights.<sup>2</sup> The Action Plan describes how the government fulfils its responsibility to protect and promote human rights in the Netherlands, the specific objectives and priorities it defines in this regard, and the role of other bodies and individuals in ensuring respect for human rights in the Netherlands. The aim is to place the protection and promotion of human rights in the Netherlands on a more systematic footing. A specific policy theme discussed in the National Action Plan is 'education, employment and culture', which covers economic, social and cultural rights.

### ***Recommendation 10 on establishing national human rights institutions.***

15. The Netherlands set up a National Institute for Human Rights, which came into operation on 1 October 2012. The Act establishing the Institute is in accordance with the Paris Principles and the Institute operates according to these principles. The International Coordinating Committee for National Human Rights Institutions therefore accredited the Institute with 'A status' in 2014. The Dutch National Institute for Human Rights was given a broad mandate which includes promotion of the protection of all human rights in the Netherlands, including economic, social and cultural rights.

16. Chief among the instruments designed to ensure a coherent approach to human rights issues are the annual reports issued (in accordance with statutory obligations) by the Institute for Human Rights and the government's

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<sup>2</sup> The English translation of the Dutch National Action Plan on Human Rights is available at: <http://www.government.nl/government/documents-and-publications/notes/2014/03/19/national-action-plan-on-human-rights.html>.

written responses to these reports. These annual reports focus on a wide range of human rights in the Netherlands, including economic, social and cultural rights.

### *2.3 Non-discrimination and equal treatment*

17. Equal treatment and the principle of non-discrimination are the foundations of the democracy governed by the rule of law in the Netherlands. Everyone has the right to be judged as an individual on the basis of his own choices, talents and responsibilities.

#### ***Recommendation 11*** on wide-ranging protection under anti-discrimination laws.

18. Article 1 of the Dutch Constitution bans discrimination on the grounds of religion, belief, political opinion, race, sex and any other grounds whatsoever. Furthermore, discrimination is prohibited in the fields of employment, the provision of goods and services, housing, education and healthcare on the grounds of sex, race, religion or belief, political opinion, sexual orientation, nationality, marital status, age and handicap. Racial discrimination in relation to social welfare and social advantages is also expressly prohibited. Discrimination in the provision of social welfare on other all grounds is also prohibited as a result of article 1 of the Constitution: the general principle of non-discrimination that is laid down in this provision, governs all acts of the national and local governments. With the combination of the Constitution and the antidiscrimination legislation, the prohibition of discrimination is applicable to all fields of society.
19. Measures to curb discrimination are high on the Dutch political agenda. On 22 January 2016, the government has submitted a letter outlining a new National action programme on non-discrimination. It provides a comprehensive framework that connects the different measures taken by the different ministries, local governments and others to combat discrimination. The

government will report on the progress made with the measures in the action programme each year in a letter to the House of Representatives.

20. The Netherlands has an extensive infrastructure which gives victims of discrimination several bodies to turn to for effective legal protection. Since 2010 municipal authorities are obliged to provide their residents with accessible anti-discrimination services where they can report complaints and seek advice and assistance (legal or otherwise). It is also possible for a victim of discrimination to apply to the Netherlands Institute of Human Rights, free of charge, for opinion ruling on an issue involving discrimination. Discrimination offences may furthermore be reported to the police, or redress can be sought in the civil or administrative courts. Any member of the public who believes he or she has been improperly treated by the authorities can also turn to the National Ombudsman.
21. To raise public awareness of discrimination, in September 2015 a broad-ranging national anti-discrimination information campaign, that will run for several years, has been launched. The campaign also focuses on encouraging people to report discrimination.

***Recommendation 12*** on discrimination against migrants and people from ethnic minorities.

22. *Integration policy*: The goal of Dutch integration policy is to improve migrants' position in society and ensure that they enjoy equal status relative to similar groups who are not migrants. Knowledge, research and practical experience of the position of migrants in Dutch society are vital for good integration policy. The annual reports on integration are the backbone of the knowledge infrastructure. These reports fulfil the recommendation to provide comparative statistics on the economic, social and cultural rights of people from a migrant

background and the rest of the population. The 2014 annual report on integration can be found on the Statistics Netherlands (CBS) website.<sup>3</sup>

23. The present Government's integration policy is based on the 2013 Integration Agenda, which acknowledges the fact that integration still presents a major challenge. This applies both to socioeconomic integration – on the labour market, for example – and to sociocultural integration. There has also been an increase in the number of migrants experiencing discrimination.
24. Racism, xenophobia: The government works on the basis of an inter-ministerial programme of action to combat discrimination. Tackling discrimination on the grounds of belief, skin colour or origin is a key component of this programme. The authorities work closely with civil-society organisations in tackling these forms of discrimination. Since 2006 schools have been legally obliged to provide citizenship education, which includes teaching pupils about our pluralist society.
25. Compliance: The police and the Public Prosecution Service focus a great deal of attention on tackling discrimination. Both have their own National Discrimination Expertise Centre (LECD) and special liaison officers have been appointed to handle cases of discrimination.
26. Since spring 2013 every unit management team has had a member with discrimination in his or her portfolio, alongside special discrimination portfolio managers and liaison officers in the units themselves. The improved form used by the Police National Discrimination Expertise Centre has increased the number and uniformity of discriminatory incidents recorded. Working instructions have been introduced to consolidate the uniform recording of incidents throughout the country.

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<sup>3</sup> <http://www.cbs.nl/nl-NL/menu/themas/dossiers/allochtonen/publicaties/publicaties/archief/2014/2014-b61-pub.htm>.

27. Uniform reporting arrangements, which allow incidents to be reported in an appropriate manner, plus enhancement of the knowledge and expertise of police staff receiving such reports, the provision of feedback on reports and improvements in the handling of reports should make the public more willing to report discrimination.

***Recommendation 13 on persons with disabilities.***

28. The Kingdom of the Netherlands is expected to ratify the UN Convention on the Rights of Persons with Disabilities in 2016. The Convention will initially apply only to the European part of the Netherlands. Extending its application to the Caribbean Netherlands will not be decided upon until existing legislation and policy has been considered in light of the obligations under the convention.

29. In the meantime, resources available for an integrated approach to socioeconomic issues may be used to encourage improvements in the position of people with disabilities in the Caribbean Netherlands. This will allow the island administrations to launch projects (some of them targeting disabled people themselves) to ascertain which parts of the Social Support Act 2015 (*Wet maatschappelijke ondersteuning*) can be applied on the islands, and how and under what conditions they can be applied.

30. *Integration in the labour market*: As of 1 January 2015, the Work and Social Assistance Act (*Wet werk en bijstand*), the Sheltered Employment Act (*Wet sociale werkvoorziening*) and part of the Work and Employment Support (Young Disabled Persons) Act (*Wet werk en arbeidsondersteuning jonggehandicapten*) have been merged into the Participation Act. The goal of this Act is to help as many people with an occupational disability as possible into work. Municipal authorities now have a wide range of instruments at their disposal for this purpose.

31. The Government has agreed with the social partners (in the social accord, *Sociaal Akkoord*) that employers in the private and public sectors will make 100,000 and 25,000 extra jobs available respectively for people with an occupational disability over a period of ten years.<sup>4</sup> These agreements are not voluntary. If the agreed number of extra jobs are not created, a quota scheme will come into effect. Employers will then pay a fine if they do not employ the required number of people with a disability. This has been laid down in the Jobs and Jobs Quota (Work Disabled Persons) Act (*Wet banenafspraak en quotum arbeidsbeperkten*) which was adopted by the House of Representatives on 16 December 2014.
32. *Education*: The Appropriate Education Act (*Wet passend onderwijs*) entered into force on 1 August 2014, improving access to education for pupils with a disability. Among other things, the legislation regulates schools' duty of care for pupils with disabilities. This means that schools must ensure that every pupil in their school, or applying to their school, is offered appropriate education. If this is not possible at the school itself the school is responsible for ensuring the child is offered another appropriate place. If parents do not agree with the offer, they may bring the case before the appropriate education disputes committee.
33. *Access to public buildings*: The usable floor area of the accessibility sector (part of a building accessible to and independently usable by persons with a functional disability) in new publicly accessible buildings with a usable floor area of more than 400 m<sup>2</sup> has been increased in the Buildings Decree 2012 (*Bouwbesluit*) from 40% to 80% of the usable floor area (for shops it is 60%). This regulation has entered into force on 1 July 2015.

**Recommendation 14** on promoting equality between men and women.

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<sup>4</sup> <http://www.rijksoverheid.nl/documenten-en-publicaties/kamerstukken/2013/04/11/kamerbrief-resultaten-sociaal-overleg.html>

34. Gender equality: The government is promoting equal rights for women and girls to make women safer and increase their participation in all layers and sectors of the labour market.
35. The Government highlighted a number of focal points in its Equal Opportunities Letter covering the period 2013-2016 (*Hoofdlijnenbrief Emancipatiebeleid 2013-2016*) and has announced various policy measures based on them. One of the focal points is promotion of women's participation in the labour market. Enhancing women's economic independence, making it easier for both men and women to combine work and care, and reducing pay inequality between the sexes are issues that are high on the equal rights agenda. The government is keen to see more women promoted to senior positions.
36. Leave and flexible working arrangements: On 1 January 2015 the Leave and Working Hours Adjustment Schemes (Modernisation) Act, (*Wet Modernisering regelingen voor verlof en arbeidstijden*) entered into force. This legislation removes impediments in the Work and Care Act and the Working Hours (Adjustment) Act (*Wet aanpassing arbeidsduur*) in order to allow employees to make better use of opportunities for leave and adjustments to their working hours, in consultation with their employer. Care leave has also been extended to those providing informal care on a short- or long-term basis to a relative in the second degree or to a neighbour or friend. Parental leave was increased to 26 times the normal weekly working hours in 2009.
37. Economic independence<sup>5</sup>:
- A detailed report on women's economic independence can be found in chapter II of the Netherlands' 6th periodic report under the CEDAW convention.<sup>6</sup>

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<sup>5</sup> Source: The Netherlands Institute for Social Research (SCP), Emancipation Monitor 2014.

<sup>6</sup> UN Doc CEDAW/C/NLD/6.

- 74% of working women work fewer than 35 hours a week. The average working week of working women is around 26 hours; the average for men is around 38 hours.
- Thanks partly to the high proportion of part-timers, women are less economically independent than men, at 53% as opposed to 73%. After a sharp rise between 2001 and 2008 the proportion of economically independent women has remained stable in recent years.
- 29% of women with low levels of education are economically independent; the figure for women who have a secondary qualification is 53%; 73% of highly educated women are economically independent.
- Some 80% of women who have children remain in work, but they generally reduce their working hours.
- Since 2009 the net labour market participation rate (people working 12 hours a week or more) of women has been stable, at approx. 64%. The gross participation rate (people working at least 12 hours a week, or seeking a job for at least 12 hours a week) among women rose during the crisis, reaching 70% in 2013. There was a slight fall in both the net and gross rates for men in 2013. The difference between men and women therefore shrank during the crisis.
- Further detail is to be found in tables 1-3 of the Annex.

38. *Pay gap between men and women*: On 16 May 2014 the Government submitted its Action Plan on Labour Market Discrimination to the House of Representatives.<sup>7</sup> It includes the abolition of existing differences in pay between men and women for the same work. In 2012, the Ministry of Social Affairs and Employment commissioned Statistics Netherlands (CBS) to investigate the pay gap between men and women in the public and private sectors. The corrected pay gap takes account of certain background characteristics such as age, working hours and level of education. The remaining gap cannot be explained. The pay gap in the public sector in 2008 was still 7% after correction, and in 2012 it was 4%. There has been virtually

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<sup>7</sup> House of Representatives, 2013-2014, 29 544, no. 523.

no reduction in the pay gap in the private sector: from 9% in 2008 to 8% in 2012. Young women in the public sector earn more on average than young men. The age up to which this applies is rising: in 2008 women earned more than their male colleagues until roughly the age of 33; by 2012 this had risen to 39. According to Statistics Netherlands, this constitutes a tentative indication that the pay gap between men and women is set to become a thing of the past.

Table 4 and 5 in the Annex contain detailed information on the pay gap.

39. The Netherlands Institute for Human Rights has launched a study at universities of professional education and in the insurance industry to establish what pay criteria or the application thereof lead to unjustifiable differences in pay between men and women.

#### *Women's participation in political life*

40. Women in political parties: As indicated in previous reports, the basic principle is that political parties are responsible for recruiting members and appointing candidates for political office. The freedom of political parties is one of the foundations of the Dutch democratic system. The figures on the proportion of women in political and public office locally are presented in the biannual report *Staat van het Bestuur* ('Trends in Governance' – available only in Dutch).
41. Mayors: The Minister of the Interior and Kingdom Relations and the Association of Dutch Mayors (*Nederlands Genootschap van Burgemeesters*) believe it is important for the number of female mayors to increase. The Ministry of the Interior and Kingdom Relations facilitates an orientation programme which provides promising lateral-entry candidates with the opportunity to familiarise themselves with and prepare to apply for mayoral vacancies.
42. Table 6 in the Annex contains statistical information on women in politics.

#### *2.4 Employment, working conditions, terms and conditions of employment, labour relations and social security*

43. Trends in employment: The economic crisis had an impact on the Dutch labour market over the period 2010-2014. Initially, the labour market's response to economic developments was cautious, taking the form of 'labour hoarding' (retaining staff despite a decline in production). Unemployment therefore initially rose less quickly than might have been expected on the basis of the decline in economic activity.
44. Unemployment fell as a result of economic recovery in 2010. This decline in unemployment continued until mid-2011. Since the summer of 2011 unemployment has been rising again. The underlying figures suggest that this rise has been caused largely by an increase in the supply of labour, which rose in 2011 and 2012 mainly as a result of rising numbers of elderly people (aged 55 and over) and young people (aged 15 to 25) participating in the labour market.
45. Unemployment peaked in February 2014, when 7.3% of the working-age population were unemployed (ILO definition, seasonal correction). Since then, the trend in unemployment has been downward, as unemployed people have managed to find work. This brings the average unemployment rate for 2014 to 6.8%. The average unemployment rate in the EU in 2014 was 10.2%.
46. Combating unemployment: Tackling unemployment is an absolute priority for the government. It focuses specifically on groups that have been hardest hit by rising unemployment, such as young people and the elderly. It has been made financially attractive for employers to take on older benefit recipients; help is also available for elderly people seeking work.
47. In 2013 the Government presented a special strategy to tackle unemployment among young people. Municipal authorities have been given extra resources to

tackle youth unemployment at a regional level. In the 'School Ex Programme' secondary vocational schools encourage young people to stay in education and opt for training that is more relevant to the labour market. The introduction of discounts on social insurance contributions has made it financially more attractive for employers to take on young benefit recipients.

48. From 1 December 2010 to 1 March 2012, a temporary 'work-to-work' scheme provided financial support (approx. €2 million) for nine experiments to help people move into other jobs. The experiments explore whether and how employers in regions and sectors could combine forces with employees' representatives to offer attractive 'work-to-work' schemes.
49. In the social accord (2013) the government and social partners agreed on a structural approach to the Dutch economy and labour market, with the aim of giving as many people as possible the opportunity of work and economic independence. The approach includes co-financing for sectoral plans, for which the government has made €600 million available in 2014 and 2015. The social partners will contribute at least the equivalent, bringing total investments in the labour market to over €1.2 billion. Sectoral plans are designed to use measures tailored to certain sectors and groups of sectors to retain jobs and prevent unemployment both now and in the future. The focus is also on vulnerable groups, such as elderly people, young people and people with an occupational disability. The aim is to reach a total of more than 400,000 people thousand through these plans<sup>8</sup>
50. The public Sustainable Employability Programme encourages and facilitates the efforts of employers and employees to make workers sustainably employable. SMEs receive support in these efforts. Government agencies share specialist knowledge and good practices relating to sustainable employability and uses communication campaigns to raise awareness.

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<sup>8</sup> Situation up to and including 7 November 2014, see Parliamentary Papers 2013-2014, 33 566, no. 71: [www.rijksoverheid.nl/documenten/kamerstukken/kamerbrief-voortgang-sectorplannen.html](http://www.rijksoverheid.nl/documenten/kamerstukken/kamerbrief-voortgang-sectorplannen.html).

51. Table 7 in the Annex contains statistics on unemployment and the jobs shortfall over the five years prior to submission of the report.

***Recommendation 16 on tackling unemployment in the former Netherlands Antilles***

52. Unemployment on the islands of Bonaire, St Eustatius and Saba is 6.2%, 4.9% and 4.4% respectively.<sup>9</sup> The government of the Netherlands and the island administrations are using various means to enhance local residents' employment opportunities. They include a reduction in the number of work permits issued to foreign workers, a vacancies database (Bonaire) and job programmes in sectors where the demand for labour is high, such as construction, hotel and catering, tourism, agriculture and livestock farming.

***Recommendation 15 on work for prisoners***

53. Prisoners in minimum security facilities (ZBBIs) currently have the opportunity to work outside the prison. Work is a very important aspect of detention in a minimum security facility, as it assists the prisoner's reintegration into society. Prior to placement in a minimum security facility, the prisoner voluntarily gives his or her informed consent (including to work outside the prison). If he withdraws his consent to stay in the ZBBI, he is replaced in principle to a normal prison.

54. The conditions under which prisoners work for private employers are regulated by the same legislation (health, safety and welfare at work legislation, ARBO) as those pertaining to ordinary employees. The prison provides accommodation and food. Prisoners are also compensated for any personal losses incurred during their stay in the prison. If a prisoner, through no fault of his own, is unable to work, he will be compensated for the loss of pay. Prisoners also have the benefit of social provisions. The pay for work outside the prison is almost equivalent to the minimum wage, taking account of the

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<sup>9</sup> Dutch Labour Force Survey, CBS, 2013.

costs of accommodation and food, as calculated by budget organisation NIBUD, and the fact that the pay is not taxed. Total weekly pay is approximately €111. All circumstances considered, the work in question is compliant with ILO requirements.

55. The government is considering abolishing the obligation for prisoners to work.

***Recommendation 17 on the rights and benefits accorded to domestic workers.***

56. The government and the social partners have set up an advisory committee to investigate whether the status of domestic workers can be improved. In spring 2014, the advisory committee presented its final report. On 17 October 2014 the government submitted its response to the report to Parliament. The government concurs with the committee's conclusion that it is not desirable for domestic workers to have poorer status than other workers. The government therefore intends to prevent improper use of publicly financed 'alfahulpen' (domestic workers providing home care to the sick and elderly paid out of personal care budgets), by adjusting the relevant legislation and/or rules and regulations, and through enhanced supervision and enforcement. The government also improved information on the status of domestic workers, drawing the attention of both private employers and domestic workers to their rights and obligations. These changes represent a first step towards improving the status of domestic workers.

*Social assistance*

57. The Work and Social Assistance Act (WWB) was tightened up in a number of respects,<sup>10</sup> effective 1 January 2012, to emphasise the fact that social assistance really is the final safety net. Municipal authorities have more scope to request that claimants perform work according to their capacity in return for benefits. Further amendments to the Work and Social Assistance Act came into force on 1 January 2015. One key change has involved the introduction of a

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<sup>10</sup> A summary can be found on [www.overheid.nl](http://www.overheid.nl), under the search term 'WWB'.

'cost-sharing norm', whereby social assistance is reduced, the more people have the same dwelling as their main residence.

58. In addition, with effect from 1 January 2012 stricter rules for young people were reincorporated into the Work and Social Assistance Act (in connection with the withdrawal of the Investment in Young People Act, *Wet investeren in jongeren*). Up to the age of 27 young people must themselves actively seek work and training for the first four weeks before they are able to apply for benefits or support. The government wishes to underline the fact that young people have their own responsibility in this regard.

***Recommendation 19 on publicising the right to social assistance in the Netherlands and the former Netherlands Antilles***

59. Since 10 October 2010 the Netherlands has been responsible for assistance (*onderstand*) in the Caribbean Netherlands. The application of both general and special assistance has been broadened over the period under review, under newly introduced policy rules. A multi-year communication plan has been introduced to raise awareness of the assistance scheme. Since then, more claimants have applied. Talks are being held with public bodies in Bonaire, St Eustatius and Saba to determine how to bring the scheme into line with poverty reduction policy on the islands.
60. *Tackling non-uptake of social assistance* and income support schemes: for this purpose municipal authorities can use online exchange of data, with the Tax and Customs Administration for example. The authorities also use various methods of communication, alongside the general information supplied by central government, to make people aware of the existence of schemes, by issuing brochures or visiting elderly people, for example.
61. Since 1 January 2010 the Social Insurance Bank (SVB) has provided general social assistance to over-65s and their partners in the form of a special supplementary income scheme for the elderly. The SVB has taken over this

responsibility from municipal authorities, with the aim of reducing non-uptake. The SVB makes elderly people with an incomplete pension aware of the existence of supplementary general social assistance and municipal low-income schemes such as special assistance.

#### *Social insurance*

62. For full details of the changes to social insurance schemes in the European part of the Netherlands, reference is made to the annual reports published under the Council of Europe's European Code of Social Security.
  
63. *Reform of the General Old Age Pensions Act (AOW)*: The raising of the standard retirement age, as enacted into law in July 2012, will be implemented at an accelerated rate. The standard retirement age will be raised to 66 in 2018 and 67 in 2021. Thereafter, the standard retirement age will be linked to life expectancy. In the Caribbean Netherlands the retirement age was raised in stages from 60 to 62 between 2010 and 2014.

#### ***Recommendation 20 on the pension entitlements of migrants***

64. The Dutch government is of the opinion that the Dutch public system of old-age pensions (*Algemene Ouderdomswet, AOW*; 1st pillar) is not discriminatory towards migrants. Like Dutch nationals, migrants accrue a 2% state pension entitlement for every year that they live in the Netherlands legally or work and pay income tax, which they are eligible to receive once they reach retirement age. Like migrants, Dutch nationals who live and work outside the Netherlands do not accrue entitlements to a Dutch state pension while living and working abroad. Migrants retain the old-age pension entitlements that they have built up in other countries. Under Regulation (EC) No 883/2004, a person may be insured in only one member state. All member states in the EU/EEA/Switzerland now have compulsory pension schemes. Migrants do not lose their entitlement to pension accrued under these schemes; pension accrued in another member state must always be exported.

65. Migrants who work as employees in the Netherlands also accrue pension entitlements in their employer's pension scheme (provided the employer is offering a pension scheme for its workers; roughly nine out of ten do), which is independent of the state pension scheme, and is related to their pay ('2nd pillar'). In the Netherlands, therefore, a person is entitled to receive a state pension and the pension he or she has accrued with an employer.
66. Migrants who are residing legally in the Netherlands when they reach retirement age and have a total income in the Netherlands that is below the Dutch net guaranteed minimum (benefit) income may apply for supplementary social assistance. Their income will then be topped up to the net guaranteed minimum (benefit) income applying in the Netherlands. The net guaranteed minimum (benefit) income is 70% of the net reference minimum wage for a single person living alone, and 100% for married or cohabiting couples.

***Recommendation 18*** on explicit acknowledgement of the right to strike, with the permitted restrictions under Dutch law

67. The right to strike in the Netherlands is based on article 6, paragraph 4 of the European Social Charter and is restricted under article 31 of the Charter. The Supreme Court (*Hoge Raad*) has ruled that the European Social Charter is directly applicable in the Netherlands. In other words, its provisions can be invoked without the necessity for legislative intervention. The right to strike in the Netherlands is based on case law, and the government does not intend to change this.
68. There have been no major changes as regards unionisation in the Netherlands since the previous report. Over the period 2010-2015 trade union membership in the Netherlands fell from 1,870,000 (2010) to 1,734,000 (2015, provisional Statistics Netherlands figure, 27 October 2015). As before, labour relations in the Netherlands were stable over this period and the number of strikes was low. There were an average of 20 strikes a year over this period (2010:21; 2011:17; 2012: 8; 2013:24 and 2014:25).

## 2.5 Protection and assistance for families

### **Recommendation 21 on domestic violence**

69. Approach to domestic violence: In the past decade, numerous measures have been taken to combat domestic violence. Since 2011, the Kingdom-wide approach is geared towards combating all forms<sup>11</sup> of violence in relationships of dependency. At the heart of this policy is strengthening the supervisory role of municipalities. The approach has been based on three pillars: (1) strengthening the position of victims (and potential victims) by taking preventive measures, reporting signs of violence, offering shelter, help and aftercare; (2) a targeted approach to perpetrators; (3) efforts to break the transfer of violence from one generation to the next. The Ministry of Health, Welfare and Sport is responsible for coordinating the policy.

70. Action by the government in several areas:

- An action plan to tackle child abuse has been adopted for the period 2012-2016. The measures focus on preventing, reporting and stopping child abuse, and on damage limitation by ensuring that children receive adequate help.
- On 6 June 2013 the government has sent a letter to the House of Representatives on the way in which it intends to step up the comprehensive system-wide approach to forced marriage, announcing measures to strengthen the approach to forced marriage and abandonment.
- On 30 March 2011 an Action Plan entitled 'The Elderly in Safe Hands' (to run until 2014, with a follow-up) has been sent to the House of Representatives. It sets out ten specific measures to combat abuse of the elderly.

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<sup>11</sup> Such as child abuse, violence against partners, sexual violence, abuse of the elderly, female genital mutilation, honour-based violence and forced marriage

71. Legislation: The Mandatory Reporting Code (Domestic Violence and Child Abuse) Act came into force on 1 July 2013. Under this legislation, organisations in various sectors, including the healthcare and youth care sectors, are required to have a code of practice setting out the steps to be taken when a professional identifies signs of domestic violence or child abuse. Organisations are also required to promote use of the code of practice and are responsible for ensuring that their staff are trained to recognise signs of domestic violence and child abuse.
72. The municipal authorities play a central role in tackling domestic violence. Under the Social Support Act, they are responsible for providing shelter and assistance. The Social Support Act has been amended, the amendments entered into force on 1 January 2015. Prevention of domestic violence will also occupy a prominent place in the amended legislation. Under the new Youth Act, which also entered into force on 1 January 2015, the municipal authorities are responsible for preventing child abuse and providing victims with assistance.
73. Since 1 January 2015 municipal authorities have been responsible for merging their Domestic Violence Advice and Support Centres and Advice and Reporting Centres for Child Abuse and Neglect to establish local joint Domestic Violence Support Centres.
74. Approach to offenders: Tackling the perpetrators of domestic violence also has the full attention of the police and Public Prosecution Service. Domestic violence and child abuse are specifically identified as high-impact crimes in the public safety agenda of the Minister, police, Public Prosecution Service and regional mayors, guaranteeing that the police will focus on the issue. Special 'child abuse front offices' for the reporting of child abuse have been established in 2015.

75. *Specific legislation*: As indicated in the previous report, the Dutch government does not believe that separate legislation is needed on domestic violence, as there is already sufficient legislation pertaining to this issue under criminal law (see below), civil law and administrative law (see previous report).
76. The Dutch Criminal Code includes numerous offences that in one way or another are aimed at offering protection against various forms of violence and violations of the physical integrity of the individual. Furthermore, when common assault and grievous bodily harm take place within marriage, the punishment can be increased by one third of the maximum penalty. Common assault carries a maximum sentence of three years and grievous bodily harm four years, increased by one third in the case of domestic violence.
77. *In the Caribbean Netherlands* a number of measures have been taken to further curb domestic violence. The Netherlands commissioned an exploratory study of the approach to domestic violence in the Caribbean Netherlands. The report (published in May 2014) revealed that domestic violence is prevalent, serious and persistent, because it is closely related to the islands' poverty and housing problems. The report found that the current approach is fragmented and not intensive enough. It must not therefore be regarded in isolation from the wider approach to social issues.
78. It has been agreed with the executive councils of Bonaire, St Eustatius and Saba that a basic policy and implementation strategy for tackling violence against women and domestic violence will be set out for the three islands. The form this basic strategy should take is being explored, in close collaboration with the islands. Saba and St Eustatius have drawn up a plan of action on domestic violence and have since begun implementing some parts of the plan. A social worker has been appointed on both Saba and St Eustatius. The three islands are also taking part in the Ministry of Education, Culture and Science's WE CAN Young campaign (2014-2016), designed to enhance young people's resilience in relationship and sexual terms. St Eustatius is tackling its poverty

issues, which are closely linked to the prevalence of domestic violence, by drawing up a poverty reduction policy. Saba has no protocol for tackling domestic violence and child abuse. The island has therefore launched consultations between all parties involved in the issue. All partners in the system are involved in drafting a protocol for problem situations involving young people and children, including domestic violence and child abuse.

79. A plan of action on domestic violence for Bonaire is expected to be published in the near future. The Ministry of Security and Justice has awarded a grant for the establishment of a safe house system on the island. The grant will be tied to a strategy for tackling domestic violence.
80. Table 8 in the annex contains statistical information on the nature and number of reports of domestic violence, convictions and penalties, and on any support and rehabilitation available to victims.

***Recommendation 35 on combating human trafficking***

81. Combating human trafficking is one of the government's priorities. The Kingdom of the Netherlands intends to ratify the 'Protocol of 2014 to the Forced Labour Convention 1930'. The Minister of Security and Justice is responsible for coordinating the Kingdom-wide effort to combat human trafficking. The government has set a goal of doubling the number of criminal organisations dealt with between 2009 and 2014.
82. The Task Force on Human Trafficking that was established in 2008 will continue its work for a third term (2014-2016). The efforts of the Task Force are bearing fruit: in 2012 courts hearing cases at first instance disposed of most cases (153) involving trafficking in human beings since 2000. The percentage of convictions for this offence – which had fallen by 25% in the period 2004–2009 – rose again both in 2010 and in 2012 (to 71%).

83. Persons without legal residence who are suspected of being victims of human trafficking are given a maximum of three months' time for reflection under section 8 (k) of the Aliens Act, to decide whether they wish to press charges. This is sometimes referred to as the 'B8 reflection period'. A project providing specialist care (COSM) for foreign victims of human trafficking during the 'B8 reflection period' was set up in June 2010 and extended until 2017. The number of places in this project was increased from 50 to 70 as of June 2012. An initial diagnosis of the victim's condition is also made in this period. Care services are also available for victims, regardless of nationality.
84. A National Referral Mechanism (NRM) has been established that will indicate the way in which the different partners go about identifying, supporting and where necessary caring for victims of human trafficking.
85. The Netherlands and the UK jointly lead the EMPACT anti-trafficking project, which was set up to strengthen cooperation in investigations of human trafficking in the EU.<sup>12</sup> The Netherlands also cooperates closely with the main source countries of victims of trafficking, such as Bulgaria, Hungary, Nigeria and Romania. In 2013, the Netherlands and Hungary signed a bilateral action plan to strengthen their cooperation on the prevention, investigation and prosecution of human trafficking. Hungary, the Netherlands and Belgium also cooperate in a project to set up a transnational referral mechanism for victims of trafficking.
86. The Ministry of Security and Justice, together with the anti-trafficking task force, was the driving force behind the EU Conference 'Putting Rantsev into Practice: Strengthening multidisciplinary operational cooperation to fight trafficking in human beings', which took place in Amsterdam in April 2013. This conference discussed the implementation by EU member states of their positive obligations under the Rantsev judgment issued by the European Court

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<sup>12</sup> EMPACT stands for European Multidisciplinary Platform against Criminal Threats.

of Human Rights and, more generally, multidisciplinary cooperation in combating human trafficking.

87. A bill to regulate prostitution and to combat abuses in the sex industry provides for the age of legal prostitution to be raised to 21, for the introduction of a licensing system for all types of businesses in the sex industry, and for an obligation for those running prostitution operations to submit a business plan when applying for a licence, which must include measures to protect the right of prostitutes to self-determination. The stricter regulations are aimed at improving the sector's transparency, getting a better grip on it, and helping to tackle abuses. The bill has yet to be approved by the Dutch Senate.
88. Several projects are taking place to alert the public to the risks of human trafficking and to raise awareness of this issue. Further, both the Centre for Crime Prevention and Safety and the Regional Information and Expertise Centres (RIECs) have organised awareness training sessions aimed at municipal authorities in recent years. They will continue these efforts to improve awareness among municipal staff. Information on labour exploitation is provided for potential victims and occupational groups, and campaigns are organised to raise awareness (leaflets and information cards).
89. The Ministry of Social Affairs and Employment (SZW) Inspectorate participated in a training programme to raise awareness of labour exploitation in the Caribbean Netherlands. The Inspectorate also supported the labour inspectors in the region, providing inspectorate-related training. The SZW Inspectorate is also investing in further training for labour inspectors to enable them to recognise signs of labour exploitation.
90. Since 2008 there has been close cooperation with the Caribbean part of the Kingdom to combat human trafficking and people smuggling. The justice ministers of Aruba, Curaçao, St Maarten and the Netherlands signed their

most recent Memorandum of Understanding in June 2011. Cooperation covers action points for prevention, assistance and protection for victims, and prosecution of suspects. The countries share information and experiences and conduct joint operations where possible. In all the countries, this cooperation has resulted in improved information on the nature and scale of human trafficking and people smuggling, structures for information exchange, criminal investigations for human trafficking and people smuggling, and multidisciplinary inspections in sectors with a high risk of labour exploitation. Assistance for victims has been improved and information campaigns have been set up in all countries.

***Recommendation 25a on the detention of asylum seekers***

91. Under Dutch policy, rejected asylum seekers and undocumented migrants may be detained on grounds of public order or national security with a view to arranging their repatriation. Detention may also be used if people are refused entry at the border. It may only be used as a last resort when (assisted) voluntary return has failed, and may not last longer than strictly necessary to arrange the return of the person concerned. The possibility of deploying a less stringent instrument is always considered first. Dutch policy includes alternative measures for this purpose, such as accommodation in a restricted facility with assisted return, confiscation of travel documents, a deposit and an obligation to report to the authorities. A million euros in grants are also available each year for local NGO repatriation projects. The possibility of deploying a less coercive measure is considered in each individual case. The various measures that exist are proportional and effective for different groups of migrants. The question of vulnerability is carefully considered when deciding which measure to deploy.
  
92. Detention pending removal can be used only if there is a real risk of the individual absconding and an actual prospect of expulsion. Every case of detention is reviewed by a court within 28 days. If detention lasts longer than six months the case will be reviewed again. In the meantime, the individual

can always apply to a court to have his detention terminated. Legal counsel for the individual will be paid for by the authorities. The maximum limit on detention for undocumented migrants in the Netherlands is six months which, in special circumstances, may be extended to 18 months at the discretion of the court. The government wishes to make it clear that the detention of aliens is a measure under administrative law rather than a punitive measure.

93. Anyone who is refused entry to the Netherlands – because they do not have the correct documentation for instance – and who applies for asylum may be detained at the border after an individual assessment. The asylum procedure will then, in principle, be conducted at the border. Border detention can be terminated before the procedure is complete.
94. Unaccompanied minors who have been refused entry and apply for asylum are never placed in border detention, but are instead sent to an open reception centre where their asylum application is processed.
95. Asylum seekers in border detention have a week to recuperate and prepare an asylum application. The asylum procedure that follows takes a week. Border detention is brought to an end as soon as possible, and if possible aliens are sent to an open reception centre. This is for example possible once an alien's identity has been established. Border detention for adult asylum seekers can be extended if one of the limited grounds for doing so applies. These grounds are confined to fraud, the abuse of asylum procedures, the applicability of article 1F of the Geneva Convention on Refugees, and the presence of a significant risk that a Dublin claimant will abscond.
96. A bill is being prepared which will more firmly anchor the grounds for detention in administrative law and set out a regime that specifically caters for the needs of aliens in detention. The new law will also enshrine alternative supervision measures, and will focus extra attention on the consideration

given to the detention of vulnerable individuals. The new legislation is expected to enter into force in mid-2016.

***Recommendation 25b*** on housing, health and education in relation to undocumented migrants

97. The basic principle of Dutch immigration policy is that aliens are themselves responsible for arranging their return to their country of origin if the Immigration and Naturalisation Service, and possibly also a court, have concluded that they are not eligible to remain in the Netherlands. During the asylum procedure asylum seekers have the right to reception services up to the point at which the statutory deadline for departure has passed. After the statutory deadline for departure, reception services may in fact continue to be offered in highly exceptional circumstances (unforeseen situations, often medical emergencies).
98. Aliens who are actively prepared to cooperate on their return may be placed in restrictive accommodation. There they can make arrangements for their return to their country of origin, with the support of the Repatriation and Departure Service, while still in accommodation. This option is also open to aliens who have not submitted an asylum application. The Dutch government together with municipalities is exploring the appropriateness of a shared provision in which unlawfully resident aliens are offered for a limited period the opportunity to consider whether they want to actively work on their return.
99. Unaccompanied minors who have exhausted all legal remedies have the right to receive reception services until they reach the age of maturity. Minors who have exhausted all legal remedies and who live with family are offered (together with his family) accommodation in family units, in order to prevent any humanitarian emergency. These families are given accommodation until they return to their country of origin, or until each child in the family has reached the age of majority.

100. The Central Agency for the Reception of Asylum Seekers has special arrangements in place for when the temperature is below zero. Any alien who is unable to find alternative accommodation in these circumstances will not be refused reception services. If their medical situation is such that departure is not possible for the time being, asylum seekers may apply for a deferral of their return, in which case reception services will be provided, including funding of their medical care. Every asylum seeker who has exhausted all the legal remedies has a right to medically necessary care. Children who are unlawfully resident in the Netherlands have the right to education.<sup>13</sup>

***Recommendation 23 on discrimination against boys in the former Netherlands Antilles***

101. The government has made resources available for the WE CAN Young campaign that will run in the Caribbean Netherlands in 2014-2016. The campaign is designed to enhance both boys' and girls' relational and sexual resilience, by for example prompting a debate on stereotypes.

***Recommendation 24 on curbing poverty and social exclusion***

102. Work is the best and quickest route out of poverty. The Government has taken a range of measures to make work pay and encourage job growth. The Dutch social security system guarantees that everyone has an income that covers the costs of subsistence. Municipal authorities are responsible for policy to tackle poverty and debt, and have various instruments at their disposal for addressing these issues. They include special social assistance, debt counselling services and discount schemes for various social and cultural activities in the municipality to promote social inclusion. In 2014 the Government made an extra €70 million, and in 2015 €90 million, available to municipal authorities to enable them to step up their poverty reduction policies, asking them to pay particular attention to children living in poverty, and strengthen their preventive efforts.

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<sup>13</sup> Under section 10, subsection 2 of the Aliens Act 2000.

103. Decentralisation in health care, youth services and work allows municipal authorities to adopt a comprehensive strategy for tackling people's poverty and debt problems.
104. The term 'poverty' is not a strictly defined concept that can be measured in one key indicator. Several perspectives and definitions therefore provide insight into different aspects of the issue. Consequently, it is not possible to identify an 'official poverty line'. However, Statistics Netherlands and the Netherlands Institute for Social Research (SCP) do present the trend in their annual Poverty Survey.<sup>14</sup>
105. Since 2010 the National Reform Programme has reported on Dutch poverty targets as part of the EU 2020 strategy. In addition to this, every other year the National Strategy Report on Social Protection and Inclusion takes a closer look at the broader effort to tackle poverty and debt.
106. The Netherlands is working with the islands of Bonaire, St Eustatius and Saba on a multi-year programme for the Caribbean Netherlands, the main priorities of which will be poverty reduction, economic development and safeguards for children's rights. The Netherlands has made extra resources available for a comprehensive approach to poverty and debt. Measures focus especially on groups where poverty seems to be concentrated in the region, such as among elderly people, the work incapacitated and families with children, particularly families with single mothers.

## 2.6 Health care

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<sup>14</sup> See: [http://www.scp.nl/Publicaties/Alle\\_publicaties/Publicaties\\_2014/Armoedesignalement\\_2014](http://www.scp.nl/Publicaties/Alle_publicaties/Publicaties_2014/Armoedesignalement_2014). This publication (full text in Dutch, with an English summary) contains the latest data on poverty in the Netherlands. The trend in the rate of poverty is described for the population as a whole, and for the main risk groups. The geographical distribution of poverty throughout the country and the degree to which people regard themselves as poor are also considered. No figures are available on poverty in the Caribbean Netherlands. In the European part of the Netherlands, the social assistance level is the guaranteed minimum (benefit) income. There is no such benchmark in the Caribbean Netherlands, partly because a different system applies to assistance (*onderstand*) there.

**Recommendation 26** on drug use, the drugs trade and addiction therapy

107. The production, distribution and possession of substances listed in the Opium Act are forbidden. Violation of the Opium Act is a criminal offence. In 2013 4-MA and qat were added to the list of substances banned under the Opium Act. The priorities in criminal investigations are import and export, commercial production, large-scale trafficking and organised crime.
108. Cannabis use among young people is gradually declining. The figure among pupils at regular secondary schools has shown a downward trend, with some fluctuations, since the mid-1990s. The proportion of pupils aged 12-16 who had ever used cannabis fell from 16% in 2003 to 9% in 2013, stabilising between 2007 and 2011.
109. In 2009, 4% of the general population (of 16.5 million) aged 15-64 were current cannabis users. About one third of this group used cannabis on a daily basis (i.e. 141,000 users). The number of cannabis clients receiving addiction care has stabilised (10,366 in 2012 and 10,446 in 2013) after tripling between 2002 and 2011 (from 3,251 to 10,637 primary cannabis clients). General hospitals still admit only a few people with cannabis abuse and cannabis dependency as a primary diagnosis.
110. The use of cocaine, especially in powdered form for snorting, is still relatively common among young people and young adults who go out, but has been overtaken by amphetamine use, which is now more popular. In 2011, fewer than 2% of pupils (aged 12-18) had any experience with cocaine and fewer than 1% were current users, approximately the same as in 2007. In 2009 the percentage of recent users in the general Dutch population (1.2%) was somewhat higher than the EU average, according to the most recent surveys in the member states (0.9%).
111. Between 2002 and 2008, addiction care services registered an increase in the number of primary cocaine clients from 5,975 to 9,331. From 2008 a steady

decrease was noted, to 7,686 primary cocaine clients in 2013. The number of secondary cocaine clients also fell, from 7,539 in 2008 to 6,309 in 2013. The number of hospital admissions with cocaine abuse or dependency registered as the primary diagnosis remains limited (88 in 2012). The number of hospital admissions with cocaine problems registered as the secondary problem was higher, and gradually increased up to 2011 (800 admissions), though in 2012 there was a drop of 3% (774 admissions).

112. After cannabis, ecstasy remains the number one illegal recreational drug among young people and young adults, especially at dance events, and there are indications that its popularity is increasing. In Amsterdam current use among clubbers and ravers in 2013 was 55% (43% for clubbers and 69% for ravers). In 2008 the figure was 21% for clubbers. Use of ecstasy and amphetamines remained stable among secondary school pupils aged 12-18 between 2003 and 2011.
113. The use of gamma-hydroxybutyric acid (GHB) is relatively uncommon among the general population and pupils in normal secondary education. GHB is used relatively often by young people and young adults when they go out.
114. Heroin use is not common in the general population. Nor is it popular among young people. According to the latest estimates for 2012, the number of problem opiate users in the Netherlands was approximately 14,000. That is less than the estimated 18,000 problem opiate users in 2008. The number of opiate clients in addiction care has fallen since the beginning of this century.
115. The number of admissions to general hospitals with opiate abuse and dependency as the primary diagnosis remained low (47 in 2012). Opiate problems were more frequently registered as the secondary diagnosis (663 in 2012).

116. In 2012, 118 drug users died of an overdose; one in four of these overdose cases can primarily be attributed to opiates (28 cases). The age at death increased. In the early 1990s 60% of deceased opiate users were under the age of 35, compared to an average of only 29% in 2006 to 2012.

117. About 75,000 addicted patients are treated in specialist addiction centres each year. 40% of them (30,000) receive treatment for problematic drug use. When criminal behaviour is influenced by problematic drug use, punishment also focuses on the treatment of addiction problems.

***Recommendation 27*** on measures to help women prevent unwanted pregnancies, and information on early pregnancies and abortion for young people

118. The European part of the Netherlands is working with the Caribbean Netherlands on sexual health education. The islands of Bonaire, St Eustatius and Saba may hire in sexual health education experts from the municipal healthcare service (GGD) in The Hague. The islands are free to provide such education as they see fit. Since January 2015 municipal authorities have been responsible for policy on teenage mothers. The islands have the status of public bodies analogous to municipalities.

***Recommendation 37*** on waiting times in mental healthcare services for children

119. Healthcare providers and health insurers have set standards for waiting times, known as the 'Treek standards': a maximum of four weeks' wait for an intake assessment, a maximum of four week's wait between intake assessment and diagnosis, and a maximum of six weeks between diagnosis and the start of treatment (seven weeks in the case of residential treatment). This is a best-efforts obligation, not a mandatory target.

120. Providers of specialist outpatient mental healthcare must keep records of their waiting times and publish them in easily accessible form (via their website). No central records are kept. The Dutch Healthcare Authority performed a

survey of waiting times and published the results on its website on 1 December 2014.

121. As of 1 January 2015, responsibility for youth mental healthcare services has been in the hands of municipal authorities. Under the Youth Act, municipal authorities are obliged to provide services that are adequate in terms of both quality and quantity. If the municipal executive fails to do so (if waiting lists grow, for example), it is up to the municipal council to address the matter.

***Recommendation 29 on improving health care for the elderly***

122. For some years, the government has been focusing on standards in care of the elderly, particularly in nursing homes. In autumn 2012 the government decided to reform long-term care with a view to raising standards, getting the public more involved and making the system financially sustainable. Over the past few years many policies have been introduced with the aim of improving quality, particularly of residential care for the elderly. However, studies by the Healthcare Inspectorate (June 2014) and others have shown that some institutions do not have the capacity to improve and that the care they provide is substandard. The government intends to redouble its efforts to improve the quality of nursing home care, in particular.

123. The growing demand for care is cited as one of the main reasons for the slow pace of improvement. Elderly people enter nursing homes at a much later age, often suffering from severe dementia, or chronic psychiatric and/or somatic problems. The knowledge and skills of staff have not kept pace with this growing burden of care. Retraining and changes to training programmes are needed. Another cause is the failure of the boards and management of institutions to pay sufficient attention to quality and the ongoing cycle of quality improvement in their organisation.

124. Support will be available for all clients by the end of 2016. Clients will be given more influence over management in nursing homes thanks to the further

professionalisation of client councils, and greater involvement on the part of relatives. Greater transparency concerning perceived quality will be achieved by, among other things, posting client reviews on a special website ([zorgkaartnederland.nl](http://zorgkaartnederland.nl)).

125. In 2015 a guideline on staff deployment (team composition, ratio of professionally trained staff to clients) has been developed as a benchmark for healthcare organisations, and also for healthcare administration offices responsible for the financing of care. The education minister and state secretary responsible for care of the elderly are also collaborating on improvements to training for all healthcare professionals in nursing homes.
126. In order to enhance transparency, in 2015 an online tracking system will be established in which all nursing homes will participate. The data in the system (general clientele profile, general information about the home, quality scores) will be accessible to the public.
127. Given the fact that the situation in the Caribbean Netherlands differs in many respects, a special health insurance scheme was introduced for this part of the Kingdom on 1 January 2011. Under the Bonaire, St Eustatius and Saba Healthcare Insurance Decree (*Besluit zorgverzekering BES*), the Dutch government administers the scheme, which covers all legal residents. The scheme is a mix of the Health Insurance Act (*Zorgverzekeringswet*) and the Exceptional Medical Expenses Act (*Algemene Wet Bijzondere Ziektekosten*) that apply in the European part of the Netherlands (the latter until 31 December 2014).
128. Long-term care is provided by private not-for-profit organisations in the Caribbean Netherlands. There are nursing and care homes on each of the three islands. The quality of the care they provide requires improvement. In 2014 the Minister of Health, Welfare and Sport adopted the recommendations of the Caribbean Netherlands Healthcare Working Group that she had

established. The working group recommended a number of specific actions to raise the standard of care to a 'level acceptable in the European part of the Netherlands'.

**Recommendation 36** on homelessness

129. Shelters in the community are organised at a decentralised level. The Social Support Act (*Wet maatschappelijke ondersteuning*) obliges the municipal authority where a homeless person is located to provide shelter for that person. The authorities have been given new powers and resources to provide social support, youth care and debt repayment assistance. This means they can provide customised support for people who are unable to fend for themselves. They therefore have both the responsibility and the resources to ensure that people do not end up on the streets.

130. The State Secretary for Health, Welfare and Sport announced in late 2014 that he would continue to monitor the number of people entering, leaving or moving between shelters in the community, and continue to press for such shelters to remain accessible throughout the country.

**Recommendation 30** on prisoners with mental health problems

131. Prisoners' psychiatric problems requiring treatment must be recognised. Every prisoner is therefore screened by the medical service when they enter a custodial institution. A decision is taken as to whether the prisoner requires care and/or treatment on the basis of this screening, information from partners in the healthcare system and observation of the prisoner's behaviour. After consultation in the multidisciplinary team, an appointment is made with a healthcare professional. If the prisoner requires clinical psychiatric care he will be transferred to a custodial psychiatric centre (PPC) or a regular institution for mental health care where there is adequate security.

132. Since 2009 the prison system has included five custodial psychiatric centres where psychiatric care is provided for prisoners with a psychiatric disorder,

sometimes in combination with addiction problems or learning difficulties. The establishment of these centres has concentrated the care available in the prison system. They provide special care that cannot be offered in an ordinary custodial institution.

133. The centres are staffed by prison care and treatment staff, nurses, health psychologists, expressive therapists, doctors and psychiatrists. Investments are being made in staff – providing recognised training and implementing recognised care programmes, for example – to achieve a care supply similar to that provided in the mental healthcare system, taking into account the limitations associated with imprisonment.

134. It is the policy of the PPCs to focus on ongoing contact with prisoners, not on long-term seclusion. Prisoners are isolated only if there is a risk resulting from their disorder that cannot be dealt with by less drastic means. The PPCs are therefore consistent with the initiatives taken in regular care to reduce compulsion. As a result, the centres use the interventions applied in regular mental healthcare. Every PPC also keeps a record of the frequency and duration of seclusion. These data are regularly examined by the multidisciplinary teams. The initial outcomes of the record-keeping already show a fall in the incidence of isolation. Experts often visit the centres to give presentations in order to make PPC staff more aware of the harmful effects of compulsion.

## *2.7 Training*

### ***Recommendation 31*** on internships for illegally resident minors on vocational courses

135. Under certain conditions aliens residing in the country illegally who start vocational training at a vocational training college (MBO) before their 18th year are permitted to do an internship so that they can complete their training. The conditions include the fact that the internship must be unpaid

and it must be obligatory in order to complete the training. On 1 July 2015 regulations have come into force which allow illegal aliens to do internships in certain curriculums of pre-vocational education (VMBO), in practical education and in secondary education for children with special needs.

***Recommendation 32 on human rights education***

136. On 17 November 2014 the State Secretary for Education sent a letter to the House of Representatives announcing a comprehensive review of the curriculum for compulsory education. The review will also consider the role of schools in teaching citizenship.

137. The Higher Education and Research Act (*Wet op het hoger onderwijs en wetenschappelijk onderzoek*) stipulates that professional education and university education must also focus on personal development and on promoting a sense of civic responsibility. There is no further explicit role for the government in prescribing the details of course curriculums. Where knowledge of human rights is needed in professional practice, it is up to the institutions and professions to ensure it is incorporated into the curriculum and/or training.

### **3. Aruba**

#### *Introduction*

138. This part of the report was prepared by the intergovernmental Aruban Human Rights Committee. It updates information on specific provisions of the Covenant followed by information in relation to specific recommendations made by the Committee on Economic, Social and Cultural Rights in 2010.

#### *Article 3 Equal rights for men and women*

139. A situation analysis of women and children was carried out in Aruba in 2011. The findings of the research conducted by UNICEF on the government's behalf indicate that Aruba has made significant progress in observing the rights and meeting the goals set out in the CEDAW Convention but that further action in certain areas is needed in order to comply fully with the Convention's requirements. A Centre for Women's Development was established in 2011, and the government mandated a special commission to draft an integrated national gender policy. The government also developed an integrated youth policy in response to UNICEF's assessment.<sup>15</sup>

#### *Article 8 Right to strike*

140. The restriction formerly imposed on the right to strike is no longer appropriate. Legal practice and case law have rendered the restrictions on public servants' right to strike obsolete. Public servants' right to strike is an acquired right, the lawfulness and effectiveness of which are examined by the courts. In both the public and private sectors, the right to strike is a last resort, and the judiciary have qualified this right as a legitimate form of action with growing frequency over the years.

141. The ban on strike action by public servants is no longer included in Aruba's revised Criminal Code, which entered into effect in 2014. Notification of the

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<sup>15</sup> See also Part 2 of the sixth report of the Kingdom under the CEDAW Convention, UN doc CEDAW/C/NLD/6, which contains detailed information on the position of women in Aruba and the actions taken by the government.

withdrawal of the reservation to article 8, paragraph 1 (d) of the ICESCR has been deposited with the United Nations.

*Article 9 social security and social insurance*

142. On 1 January 2011 the National Ordinance on Supplementary Benefit (*Landsverordening reparatietoelag*) entered into effect. This national ordinance provides that an employee who is registered with the Population Register and whose wages in a calendar month are neither below the minimum wage nor above AWG 2,500 is entitled to supplementary benefits up to a maximum of AWG 115. A person registered in the Population Register who receives a pension, as well as the spouse of a person who receives an old age pension and who has also reached the legal retirement age, is entitled to supplementary benefit of AWG 100. The underlying rationale is to compensate those concerned for the loss in purchasing power arising from the economic recession.

*Article 10 Family law*

143. Vulnerable groups: The government has taken several measures to improve the quality of life of vulnerable groups. Monthly social security payments have been increased by 25%. In addition, parents who receive social security are now entitled to receive an annual sum of AWG 200 for every child attending school, as well as financial assistance from the government to cover educational costs.

144. Protection of children: child abuse is punishable under Aruba's Criminal Code. The penalty for abusing a child can be increased by one-third if the abuser is the child's parent. The government and NGOs have conducted campaigns to focus attention on the problem.

145. The government is committed to combating child labour in all its forms. New guidelines have also been introduced to distinguish between light and hazardous work. Light work is permitted for children aged fifteen to

seventeen. Hazardous work is prohibited for all minors. The introduction of the Compulsory Education Act added an extra layer of protection. Since 2012, Aruba has also been party to the ILO's Worst Forms of Child Labour Convention.

***Recommendation 21 on domestic violence***

146. Domestic violence: the new Criminal Code (APC) entered into force in February 2014. It defines domestic violence as a specific offence, as did the previous text. Articles 2:273 to 2:276 of the APC define as criminal offences all forms of abuse (simple assault, assault with a weapon, and aggravated assault) and state that these offences may be punished by four to twelve years' imprisonment. Article 2:277 APC states that the maximum punishment imposed under the aforementioned articles on abuse are to be increased by one-third if the abuse was committed against the offender's mother, father, husband or wife, partner, biological child, or foster child.
147. The punishments that may be imposed for abuse are also increased by one-third in the case of an offender who committed the offence against someone entrusted to his care, education, or supervision, as in the case of a teacher, care worker or sports coach.
148. Since 2000 the 24-month basic training at the Aruba Police Academy has included several training modules on dealing with victims, including victims of domestic violence. Specifically in the 'Legal Protection' module, students are informed and trained in the legal rules and police regulations concerning victim support, the treatment of victims, victims' rights (e.g. the right of access to relevant information and the right to seek financial compensation) and the process of referral to the Victim Assistance Bureau. In the subsequent 24-month period of in-service training at the Police Academy, students – who are by then working within the police force – follow a range of modules that include the subject of victim assistance.

149. As noted in previous reports, the Foundation for Women in Distress provides ambulatory and residential care and plays an important role in educating the public and raising awareness regarding violence against women.
150. *Human trafficking*: the new APC makes human trafficking a crime punishable by a maximum of 8 years' imprisonment (up from 6 years) or a fine of AWG 100,000, which may be increased to 12 years' imprisonment (up from 8 years) if the crime is committed by two or more associated persons or the victim was under sixteen years of age, to 15 years' imprisonment (up from 12 years) if the crime resulted in serious physical injury or if another person's life hangs in the balance, or to 18 years' imprisonment (up from 15 years) in the case of a victim's death, under article 2:239 of the APC. This article covers both internal and transnational forms of trafficking. Article 2:240 of the APC is new and punishes the use of services provided by someone who is a victim of human trafficking, if this person is known to have been forced or coerced into providing these services by means as mentioned in article 2:239 of the APC. In this case, the punishment is a maximum of 4 years' imprisonment or a fine of AWG 25,000. Slave trafficking is a crime and is punishable by a maximum of 12 years' imprisonment or a fine of AWG 100,000 under article 2:241 of the APC. Under article 2:239 of the APC, all forms of exploitation are punishable by 8 to 18 years' imprisonment or a fine of AWG 100,000.
151. Since 2011, lectures focusing specifically on human trafficking have been part of the basic training for police, immigration, and prison guards and the extended in-service training for police officers at the Police Academy. Since 2012 lectures on human trafficking have also been part of the training for executive level police managers. In 2013 training on this issue was provided as part of the annual event organised on 18 October, the National Day against Human Trafficking. Representatives of several governmental organisations and NGOs were informed about human trafficking, the results of the Situational Analysis, and the forthcoming study of commercial sex work in Aruba. In 2014

and 2015, representatives of several governmental organisations received training on the subject of human trafficking.

152. In Aruba the Victim Assistance Bureau helps victims of trafficking by, for example, arranging shelter, legal assistance, medical care, and assistance in other matters. The Bureau provides assistance to victims of all criminal acts and works on a 24/7 basis.

153. The first multidisciplinary action plan of Aruba's Counter Trafficking Taskforce was approved on 21 January 2009. It included activities ranging from publicity, prevention, and fundraising to investigation and prosecution, the hotline, and emergency assistance. The action plan was modified for use in 2011–2013 and 2013–2015. The current Action Plan for 2015–2017 is based on a triple-track policy: preventing the human suffering caused by trafficking, prosecuting offenders, and protecting victims. The action plan is built around the 'barrier model', in which multiple departments exchange information so as to develop a more complete picture concerning the size, modus operandi, and partners of the criminal organisations involved in human trafficking. Using this information, the government can set up barriers in the areas of immigration, housing, identity, labour, and finances to frustrate these criminals' actions.

154. *Family reunification*: the following policy changes have been made since the previous report. First, Dutch nationals who were born in Aruba as well as those who were born outside Aruba but obtained Dutch nationality by naturalisation or by option in Aruba are immediately eligible for family reunification if their spouse or children are foreign nationals. Furthermore, foreign nationals working in Aruba are no longer restricted to a period of three years' employment. If no Aruban nationals who are qualified to do the job concerned are available, the foreign national's permit can be extended. Foreign nationals who have been admitted to Aruba are eligible for family reunification after three years' residence, provided certain conditions are met.

155. Asylum seekers and their families: Article 19 of the 2009 Admissions Decree provides that asylum seekers may stay in Aruba, and may also take up employment, while their request for asylum under the terms of the Refugee Convention is being processed. This article is also applied to the fulfilment of obligations arising from international conventions such as those relating to the combating of human trafficking.

*Article 11 An adequate standard of living*

156. In accordance with Aruba's price control regulations (AB 1991 no. GT 17) the government sets maximum prices for items specified on a list of primary commodities. The latest update of this list of basic commodities, along with the maximum prices that wholesalers and retailers may charge for them, was issued in August 2015. The list includes rice, cornmeal, sugar, baby food, coffee, tea, margarine, powdered milk, liquid coffee creamer, butter, and edible oil. Maximum prices also apply to chicken eggs, and white bread.

157. Improvements in living conditions: The government has developed the "Bo Aruba" (Your Aruba) and "Bo Bario" (Your Neighborhood) programs, which include the renovation of the two urban centers, Oranjestad and San Nicolas, and 20 other neighborhoods on the island. The priority of these programs is to create more parks and public spaces. To further stimulate greater social cohesion and social capital, every neighborhood on the island will be receiving new community centers or multifunctional accommodations, which offer various social services and activities all under one roof to Aruba's citizens. In the past 3 years Aruba has made considerable progress in developing its renewable energy capacity while simultaneously reducing its emissions. Aruba is already producing around 20% of its energy needs from renewable resources

**Recommendation 24 on poverty**

158. No official poverty line has been established for Aruba. As of June 2015 the indexed monthly subsistence level for a single-adult household was set at

AWG 2,075. The subsistence level is based on the figures in the report 'Bestaansminimum 2010' published by CBS in conjunction with the Public Health Department, the Department of Social Affairs, the Department of Economic Affairs, Commerce & Industry, and the FCCA (a foundation that specialises in social housing) and is adjusted in line with inflation each month on the basis of the monthly consumer price index.

#### *Article 12 Health*

159. Breastfeeding: In 2010 the government of Aruba approved a National Plan to promote breast feeding. The effects will be measured in 2016 when the Department of Public Health carries out a study on breastfeeding..

160. The Pro Lechi Mama Foundation (PLM) was founded in January 2002 with the aim of promoting breastfeeding in Aruba. The PLM pursues this objective by disseminating information and by supporting women who want to breastfeed but who struggle initially because they lack the knowledge they need to make it succeed. The PLM's activities have helped to boost breastfeeding on Aruba. As noted above, breastfeeding will be measured again in 2016.

161. Obesity: In view of the government's responsibility for a comprehensive and clear policy in pursuit of both high-quality education and optimum health for adolescents, a 'Healthy School' Steering Committee was set up by ministerial order in 2011, comprising members of the Department of Public Health, the Department of Education, and the National Sports Council. The Steering Committee prepared the strategic plan 'Healthy School 2011–2016' with the aim of implementing policy strategies designed to fulfil the Healthy School objectives. After identifying logistical factors and assessing the feasibility, a pilot project was launched in five schools. Following the evaluation of the pilot project, the plan will eventually be introduced in all primary schools. In the longer term, consideration will also be given to extending it to secondary schools.

162. In another bid to promote healthy and active lifestyles, the National Institute for Healthy and Active Living (Instituto Biba Saludabel y Activo; IBISA) was established in June 2012. This is a government agency that seeks to encourage a healthy lifestyle that includes physical exercise, sport, and good nutrition.

163. A platform for elderly care was established in September 2015. The purpose is to ensure that the elderly have access to care, , to develop guidelines to ensure quality of care in facilities that provide long term care for the elderly and also to stimulate integrated care.

#### *Article 13 Education*

164. The Compulsory Education Act entered into force in December 2012. The Act guarantees access to the educational system for all children, irrespective of their legal status. Compulsory education applies to all children aged 4 to 16.

165. *Financial assistance for parents*: parents whose annual income is below AWG 37,000 qualify for financial assistance to help pay for textbooks, a graphic calculator, and the cost of bus fare. Parents who receive social security are now entitled to receive AWG 200 for every child attending school, as well as financial assistance from the government to cover educational costs. These provisions relate to pupils attending kindergarten and regular full-time education who live with their parents.

166. *After-school programme*: The government introduced an after-school programme in 2014. The aim is to offer a structured programme of supervised activities for secondary-school pupils, in a safe environment, aimed at encouraging children to study and to foster their personal development. The activities are provided every day, outside regular school hours. The supervision is based on a specific educational approach that is detailed in an educational plan. The programme includes transport, a meal, and assistance with homework.

*Article 15 Participation in cultural life*

167. Twelve policy priorities were presented in 2014, the four most important of which are:

- The digitisation and documentation of Aruba's cultural heritage;
- Artistic and cultural education in the broadest sense, the structuring and inclusion of a cultural programme in the school curriculum;
- Cultural entrepreneurship;
- Drawing up a cultural calendar and making it available to the local community and tourists in a modern, digital form.

168. The Research and Documentation Division of the Culture Department will collaborate on a permanent basis with the University of Aruba and the Ministry of Tourism to protect the island's cultural and historical heritage. Papiamentu as the native tongue of the people of Aruba is an essential part of this.

169. Since 2006 the school project 'Contacto Cultural' has been organised especially for primary schools. Some 1,200 pupils take part in this annual event, at which the various cultural institutions provide information about their activities. Each year's event is devoted to a specific theme. The cultural partners in this initiative include the National Library, the Museum of Archaeology, the Agriculture, Cattle Breeding and Fisheries Service and the National Archives.

170. The Ministry of Culture has presently launched the Aruba Mural Projects, which highlights street art with the full involvement of school children, who take part in workshops and produce their own street art. The project 'Arte di Palabra' ('The Art of the Word') is a project that focuses on the correct usage of Papiamentu among young people. This project is currently being organised in close cooperation with secondary schools.

**Recommendation 7** on the National Action Plan on Human Rights

171. Aruba is currently taking steps to draft a national human rights action plan. It will do so on the basis of the most recent periodic reports submitted under the human rights instruments and the international recommendations arising from them. This integrated action plan, embracing a broad spectrum of human rights, with set priorities and implementation paths, will promote the observance and implementation of human rights in Aruba.

***Recommendation 10 on a National Human Rights Institute***

172. The interdepartmental Human Rights Committee of Aruba and Children's Rights Committee have the task of advising the government on its human rights policy, monitoring legislative compliance with the provisions of the conventions, educating the public about Aruba's obligations under the conventions, and drafting national reports on compliance with the various human rights conventions. The government of Aruba undertook during the most recent Universal Periodic Review to create an independent human rights institute in the near future, based on the Paris Principles, similar to the one in the Netherlands. In July 2014, delegates from Aruba made an information-gathering visit to the Netherlands Institute for Human Rights, together with representatives from Curaçao and St Maarten. On the basis of the information obtained and the contacts forged, Aruba will decide on the next steps to be taken. The Aruban Parliament has announced that it is working on an initiative to establish an Ombudsman and a Children's Ombudsman in the near future.

***Recommendation 22 on corporal punishment***

173. Corporal punishment is prohibited by law in Aruba's schools, and the Civil Code is currently being amended to forbid parents to subject their children to mental or physical violence or to any other degrading treatment.

***Recommendation 16 on unemployment***

174. The Government has invested in the following programmes to combat unemployment in Aruba:

- Enseñansa pa Empleo ('Education for Employment'): the government provides adult education to help job seekers upgrade their skills or learn a new trade.
- Social Training Programme: the government has also introduced a training programme for young male residents aged 18 to 24 who are not in education or employment and have no qualifications. They undergo physical training and are taught discipline and behavioural norms and values. This basic (military-style) training is followed by specialised vocational training to maximise their chances on the job market.
- Work-study programme: the Probation, Rehabilitation and Youth Protection Service in Aruba also runs an educational and vocational training programme for 'at-risk' youth and young offenders in order to integrate them into the labour market.
- In June 2014, the Government initiated a programme called 'Ban Traha' ('Let's work'). This programme is based on cooperation between the Labour Department, the Department of Labour Development and the Department of Social Affairs, and seeks to enable 500 social benefit recipients to join the labour market in the space of two years. Extra individual attention is a key factor here: each participant is closely supervised by the same employment intermediary throughout the programme.

***Recommendation 17 on domestic workers***

175. The working hours, rest periods and overtime pay of domestic staff (live-in maids) are now regulated by law, as a result of which these employees enjoy better protection than before. If domestic staff work more than the prescribed maximum number of hours, they must be paid a 50% bonus, and a 100% bonus if they work on a rest day or official holiday. Most domestic services are provided by female workers. These workers may not be paid less than the statutory minimum wage.

***Recommendation 39 on the dissemination of the Concluding Observations***

176. Aruba's Department of Foreign Affairs is currently updating the information on human rights on its website and will publish the various reports on the Conventions applicable to Aruba and the recommendations of the UN Committees. Educating the public about human rights issues in a systematic way is a matter that will be addressed in the National Human Rights Action Plan.

## **4. Curaçao**

### *4.1 Introduction*

177. This part of the report has been prepared through inter-ministerial consultation and through dialogue with NGO's, coordinated by the Foreign Relations Department. The following organisations played a particularly active role: the Central Bureau of Statistics (*Centraal Bureau voor de Statistiek*), SEDA (women's organisation), the Victim Support Foundation (*Stichting Slachtofferhulp*), FMA & Brasami (addiction rehabilitation organisations), Amnesty International Curaçao, the Ministry of Health, Environment & Nature, the Ministry of Justice, the Ministry of General Affairs and the Ministry of Social Development, Labour & Welfare.

### ***Recommendation 7 on a National Human Rights Action Plan and recommendation 10 on a National Human Rights Institute***

178. At present Curaçao does not have a national human rights action plan. The scope for establishing a human rights institution that is compliant with the Paris Principles and drafting a national human rights policy are currently being studied.

### ***Recommendation 33 on institution-building and the enactment of economic, social and cultural rights***

179. Articles 21-27 of the Constitution of Curaçao provide that economic, social and cultural rights are the concern of the authorities. In particular, the attention of the Committee is drawn to the Articles 23, 25 and 27 (see table 14 in the Annex for a translation of these three provisions). Examples of enactment in legislation include the country ordinances on compulsory schooling, employment for young job-seekers, working hours, basic insurance, health insurance, public health, measures to combat infectious diseases and the obligation of young people without basic vocational skills to take a course to maximise their chances of finding work.

## 4.2 Non-discrimination and equal treatment

### **Recommendation 11** on anti-discrimination legislation

180. Under article 101 of Curaçao's Constitution (*Staatsregeling*), the courts may review country ordinances to ensure compliance with the fundamental rights referred to in articles 3-21 of the Constitution. It also follows from article 3 that all persons in Curaçao are treated equally in equal circumstances. Discrimination on account of religion, political or other opinion, race, sex or any other ground is not permitted. These articles therefore provide a safeguard against discrimination in legislation.

### **Recommendation 13** on persons with disabilities

181. The 2004 report entitled 'Disability policy concerns everyone' (*Gehandicaptenbeleid gaat iedereen aan*) states that a large proportion of both mentally and physically disabled people face physical and social obstacles in their daily lives to their participation (or continued participation) in society. As the report notes, 'the provision of assistance and support for the disabled is in no way geared to take account of this'. The social exclusion of the disabled is worsened by the fact that they are poorly organised as a group. This remains true today and a matter of constant concern to the government of Curaçao.

182. The government of Curaçao is considering extending the application of the UN Convention on the Rights of Persons with Disabilities (CRPD) to Curaçao, once it has been ratified by the Kingdom of the Netherlands. Curaçao is accordingly in the process of drafting policy and legislation to implement the convention.

### **Recommendation 14** on gender equality

183. To increase and strengthen the effectiveness of policies and strategies the government set up a job vacancy database on 6 September 2013 to provide various services for unemployed women and men. The crucial functions of the database are to promote the financial independence of women, especially

mothers with small children, and facilitate access to the labour market for women. Together with major employers on Curaçao, the government has also founded the National Coalition for Quality Employment to organise long-term projects with on-the-job training.

184. The Maternity Leave Act is an example of legislation to improve work arrangements. The rules of the working hours scheme apply to both men and women. Some businesses have even adopted their own internal policy of enabling men to take paternity leave.
185. Curaçao has many women in prominent positions. At present, the governor is a woman. Before its dissolution, the Netherlands Antilles had had five women prime ministers, some of whom served more than one term of office. The first woman prime minister took office as long ago as 1977. As regards women's participation in political life, six of the 21 members of parliament and two of the nine ministers are women (28.6% and 22.2% respectively).
186. Tables 9 – 11 in the Annex contain statistical information on the economic position of women relative to men in Curaçao.

#### *4.3 Employment and social security*

##### *Right to work and **recommendation 16** on unemployment*

187. In 2013 the Central Statistical Office released data showing that 37.2% of young people in the 15-24 age group were unemployed. As noted above, the government has set up a job vacancy database in 2013. The main goal of the job vacancy database is to successfully match jobseekers with available vacancies. Steps are being taken to introduce a volunteer database for retired and unemployed people who are still willing to make a contribution to society by sharing their knowledge and experience. As noted above, young people abroad are being given the opportunity to apply for jobs through the job

vacancy database in order to find work on Curaçao and thus make a contribution to their island of birth.

188. The government is also taking steps to promote the right to work by enhancing the effectiveness of programmes through major stakeholders, for example by agreeing protocols with major companies on the island such as the ISLA Refinery.

#### *Working conditions*

189. Since the previous report there have been no major changes in legislation on the minimum wage. However, the minimum hourly rate of pay has been adjusted under the National Minimum Wage Ordinance to track the consumer price index (households). The amount for 2015 is ANG 8.15. The minimum wage decree states that the minimum hourly rate of pay for all job categories is ANG 8.15. This also applies to domestic workers. No major changes have taken place in relation to the Working Hours Act since the previous report.

#### **Recommendation 17** *on domestic workers*

190. There is no special legislation on social security benefits for domestic workers. In general, the old age pension ordinance, widow's and orphan's benefits ordinance and basic health insurance ordinance apply to this group. Domestic workers receive extra protection as regards holidays, working hours and minimum wage schemes.

#### **Recommendation 19** *on the uptake of social assistance*

191. Free education (*Enseñanza Liber*) was introduced for primary and secondary school children in 2012. The scheme is publicly funded. *Enseñanza Liber* has helped to reduce costs for people living on a minimum income or less. Besides free education for their children, parents on a minimum income may also apply for financial assistance for school attendance, clothing and transport.

192. Since 2010 children have been able to obtain a free hot, well-balanced meal during school time at the request of their parents. The meals are planned by a nutrition expert. The number of schoolchildren taking part in the *Kuminda Kayente* project has not yet been recorded, but the scheme has been so successful that a 'breakfast project' is now being introduced for the same target group.

193. The aim of the Social Mediation Bureau is to promote social intervention in disputes. The number of subsidised court cases funded for people on a minimum income (ANG 1,500) has grown. The government provides free assistance in family matters, for example cases concerning maintenance, divorce and inheritance. This helps avoid the costs of court proceedings. If clients are not satisfied with the mediation arranged through the Bureau, they can still apply to the courts and obtain legal aid to cover their costs.

***Recommendation 24 on combating poverty***

194. The poverty line was raised to ANG 2,195 in 2008 and once again to ANG 2,500 in 2012 for a two-parent family with two children.

195. The Ministry of Economic Development has lowered sales tax on certain basic necessities of life, known as 'Makutu Basiko' (fresh vegetables, cereals, rice, beans and powdered milk), to under 6%. The government is also trying to reduce costs for those on a minimum income. Various anti-poverty programmes focusing on economic, social and cultural rights are being operated by NGOs as well as by the Ministry of Social Development, Labour & Welfare.

***Maternity leave***

196. A country ordinance on maternity leave benefits amending Book 7A of the Civil Code of the Netherlands Antilles was passed in 2012. The aims of the ordinance included promoting the health and safety of mother and child and providing protection during pregnancy and maternity, thereby bringing them

up to international standards. As a consequence of the new article (article 1614ca of Book 7A) of the Civil Code, female workers who are unable to work due to pregnancy and maternity are entitled to continued payment of their full salary for no less than two weeks and no more than six weeks before the expected date of childbirth and for no less than eight weeks and no more than twelve weeks after the actual date of birth. In addition, the new paragraphs 7 and 8 of article 1615h provide protection for female employees by prohibiting employers from terminating their employment during pregnancy and maternity leave for reasons connected with their pregnancy. Moreover, pregnant women may not do night work or spend too long standing at work. In addition, women have the right to take breaks in order to breastfeed or express milk.

197. In 2012 maternity leave was extended from 12 to 14 weeks. This is in keeping with ILO Convention No. 183. The introduction of the right to breastfeed in the workplace, as laid down in the Civil Code, makes it easier for mothers to return to work. Some employers also provide for the possibility of paternity leave. The new articles of the Civil Code have created the flexibility necessary to enable fathers and mothers to learn to divide their roles and duties.

***Recommendation 18 on the right to strike***

198. In accordance with ILO Convention No. 87, Articles 5 and 6 of the European Social Charter and national laws, workers have the right to join an independent trade union without the consent of the government or other unnecessary restrictions. The law expressly prohibits discrimination and retaliation for lawful strike action (article 6:645-647, Curaçao Civil Code). Although public servants have always had the right to strike, the restrictions imposed on this right have been left in place for too long when assessed by reference to Article 8 (1)(d) of the Covenant and article 6 (4) of the European Social Charter. In practice, these restrictions proved to be outdated. In 2013 an inter-ministerial committee identified inconsistencies in the national legislation, for example the Civil Code, the Criminal Code and the Substantive

Public Service Law Ordinance (OJ 2010 np. 87), and amended the provisions to bring them into line with Article 8 (1)(d) of the Covenant and Article 6 (4) of the European Social Charter. These amendments resulted in changes in 2014 to the restrictions on public servants' right to strike.

#### *4.4 Health*

199. There are no accurate statistics on drug consumption or drug trafficking on the island. Treatments are available: *Brasami* is a secure clinic (compulsory treatment) that treats men, women and boys. *Speransa* is a centre for voluntary treatment for men, women, boys and girls.

200. The FMA, another rehabilitation organisation, provides outpatient treatment to people who have a daytime activity (school or work). It also has an outreach treatment team that visits clients in their home environment. In addition, the FMA has a walk-in centre that provides night shelter for chronic addicts in the city centre. However, this does not provide treatment, but merely offers care and human contact with a view to reducing harm and minimising nuisance.

201. Table 13 in the Annex contains an overview of early pregnancies in Curaçao (as requested in recommendation 27).

#### *4.5 Protection of the family*

##### **Recommendation 21** on domestic violence

202. Domestic violence has still not been made a specific offence. However, a private member's bill has been introduced in 2013 to regulate this in the form of a country ordinance, and the Public Prosecution Service has issued instructions for dealing with cases of relational violence. In 2012 the government, together with NGOs, presented a national plan for halting domestic violence and child abuse.

203. Various NGOs, including SEDA and the Victim Support Centre, are engaged in raising awareness of what constitutes domestic violence, for example by means of special campaigns and activities such as film and discussion evenings and radio and television programmes.
204. The National Alliance, an NGO established to tackle domestic violence, hosted a 'national dialogue' on 28 and 29 May 2012. Those taking part included civil servants, policy advisers and stakeholders. The Ministry of Social Development, Labour & Welfare is also working to tackle the issue and is collaborating with the National Alliance to put in place a comprehensible and structured system and formulate an effective policy.
205. Few data are available. In its report on the Millennium Development Goals on Curaçao, UNDP quotes figures released by the office of the Procurator General, namely that the number of registered cases of gender-based violence increased from 45 in 2008 to 103 in 2009. UNICEF rightly observed in 2013 that this is probably just the tip of the iceberg, if only because these figures do not include cases of psychological abuse.
206. The Public Prosecution Service has detailed internal rules that enable the police force to take action in cases of domestic violence. The National Plan of Action recommends that changes be made and that these internal rules be converted into a decree, which could then be invoked by members of the public. A further recommendation is that a special domestic violence unit be established within the police force so that cases of domestic violence can be tackled more professionally.
207. The National Plan also provides for further research and the introduction of standardised data and registration. An observer will monitor violence against women, particularly domestic violence.

208. The figures in table 12 of the Annex, obtained from the Victim Support Centre, show the total number of domestic violence cases handled by the Victim Support Centre in the years 2010-2013 and the number of complaints filed by the Centre's clients with the police on account of relational violence. The percentages in brackets represent the number of relational violence complaints as a proportion of the total number of complaints filed through the Victim Support Centre annually.
209. Clients of the Victim Support Centre who are subjected to relational violence sometimes leave their home and are put up in other accommodation. The two shelters where the Centre can place victims are *Time Out Curaçao* (TOC) and *Parada*. The former is a secure shelter for victims of relational violence and human trafficking. The latter is a kind of open halfway house for victims of relational violence who are no longer in danger. These two shelters admitted 34 persons in 2014, up from 31 in 2013.
210. One of the successful forms of victim rehabilitation is known as 'restorative practices', which involves the perpetrator and victim confronting one another. This therapy is facilitated by SEDA. Among those who have now received training in it are staff of various partner organisations in the criminal justice system and psychosocial support organisations.

***Recommendation 35 on human trafficking***

211. Curaçao's new Criminal Code, which makes human trafficking a criminal offence, came into force in November 2011. One of the subjects specifically dealt with in an information campaign to inform the public about the changes introduced by the new code was human trafficking. A general information campaign to inform the public about human trafficking has been ongoing for some years. Since 2007 a multidisciplinary working group on Curaçao has mounted public information campaigns on this theme. In 2008 and 2011 the Ministers of Justice of the constituent countries of the Kingdom of the

Netherlands signed memorandums of understanding with a view to joining forces in combating people smuggling and human trafficking.

212. The first two people to be charged with sex trafficking were tried in 2014.

***Recommendation 31 on migrants***

213. The Ministry of Social Development, Labour & Welfare has started a project to assess the impact of migrants on society. The aim is to obtain information about the problems of migration and integration on Curaçao. The project was started because scarcely any data are currently available on migrants in Curaçao's society or how they affect the healthcare and educational systems and labour disputes. Much of the available information is anecdotal. The aim of the project is to obtain hard data as a basis for formulating specific policy for female and young migrants. A conference entitled 'The undocumented child on Curaçao' was held as part of this project.

## **5. Sint Maarten**

### *Self-determination (Article 1)*

214. As described in the fourth and fifth periodic reports regarding the Netherlands Antilles, submitted in 2008, a series of referenda were held between 2000 and 2005 on altering the constitutional status of the Netherlands Antilles. In the referendum held on Sint Maarten, on 23 June 2000, 69,9% of the population voted for becoming an autonomous country within the Kingdom of the Netherlands, 11,6% voted in favour of becoming a part of the Netherlands, 14,2% voted in favour of becoming an independent State and 3,7% voted to remain a part of the Netherlands Antilles. On 10 October 2010, Sint Maarten achieved its autonomy, as outlined in para. 3 above.

215. Taking into consideration the significant effort that was put into achieving this status and its importance to the people of Sint Maarten, the upholding of the universal right of self-determination is paramount to the government. It is enshrined in the preamble of the Constitution.

### *International assistance and cooperation (Article 2)*

216. The most significant donor of development aid to Sint Maarten, in the form of financing for projects and programs, is the European Union (EU). Sint Maarten also receives development aid from the United Nations Development Programme (UNDP) in the form of technical assistance. Following the disbanding of the Netherlands Antilles, as of 2015 the Netherlands no longer acts as a donor for development aid to Sint Maarten.

217. As an "OCT" (Overseas Countries and Territories), a status inherited following the dissolution of the Netherlands Antilles, Sint Maarten has a special relationship with the European Union. Sint Maarten is eligible for European Union funding for its projects and programs financed through the European Development Fund (EDF). EDF 10 and the European Territorial Cooperation Programme (TCP) were in force during the period under review. An amount of

€4.75 million and 30% of €10 million (€ 3 million) was made available through territorial allocation for the EDF 10 and the TCP respectively. Some of the projects included:

(i) Upgrading the Dutch Quarter;

The upgrading of the sewage, drainage, drinking water and road infrastructure in the Dutch Quarter area and eliminating pollution in the form of nutrients and pathogens to the surface water bodies and coastal areas;

(ii) Territorial Cooperation Programme Innovative pilot (2014-2020);

This pilot will potentially merge the development funds available through the EDF with the regional funds available through the European Regional Development Fund (ERDF). It involves one EU Member State (France), one overseas region (St. Martin) and one OCT (St. Maarten). Potential Projects include:

1. the construction of a joint wastewater treatment plant in Cole Bay, St. Maarten;
2. initiatives towards the joint protection and sustainable development of Simpson Bay Lagoon;
3. construction of a main drain in the *Belle Plaine* area of the French Quarter;
4. establishment of a joint cooperation structure for both sides of the island.

218. St. Maarten also participated in the EDF 10 Regional and Thematic Programs. The regional program is focused on small and medium enterprises (SME), aiming to strengthen the government service capacity to the business sector, to improve the capacity of Business Service Organizations (BSOs) and to increase trade and investment relations among the EU, CARIFORUM and the Caribbean OCT's. The thematic program aims to enhance the OCT's capacity to innovate by enhancing the links between main stakeholders (i.e. private sector, research, education and public authorities). In 2014 St. Maarten became Regional Authorizing Officer (RAO) for all Caribbean OCT's for a Caribbean Regional Program under the 11th EDF on the topic of Sustainable Energy and Marine Biodiversity.

219. As to the cooperation with the UNDP: in December 2012 a new program was started: "Building a Nation: Sint Maarten National Development Plan & Institutional Strengthening". This program will support the strengthening of institutional capacities for national development and nation building with specific focus on delivering a National Vision and a National Development Plan.

*Equality (Article 3)*

220. The Constitution of Sint Maarten stipulates that all persons shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, skin color, sex, language, national or social origins, membership of a national minority, assets, birth or on any grounds whatsoever shall not be permitted (Article 16). Additionally, undermining another's right to exercise fundamental freedoms is prohibited in the Penal Code. Sint Maarten also fully recognizes its responsibility with respect to international standards. ILO Convention no. 111 (Discrimination (Employment and Occupation) Convention) applies in Sint Maarten. Moreover, women have the same rights as men, be it in the family, in labour relations, in property or inheritance matters or in the judicial system.

221. Women continue to be represented in the labour force, with an upward trend moving into middle and upper middle income positions. This has a direct correlation to the increase in tertiary-level educated women. Moreover, women continue to hold key positions in government that range from department heads to minister; and women continue to hold seats in Parliament. More recently, we have also seen an increase in representation of immigrants in the political arena.

*Limitation of rights (Article 4 and Article 5)*

222. The Constitution of Sint Maarten clearly defines the instances where the rights of an individual may be limited. Limitations of specific rights can be found in Article 9 (freedom of religion), Article 27 (personal liberty) and Article 112

(state of emergency) of the Constitution.<sup>16</sup> Article 31 proscribes that restrictions of fundamental rights shall be necessary and proportional and shall be described as specifically as possible. Parliament may not approve a draft national ordinance containing restrictions of the fundamental rights or resolve to propose such a draft for endorsement without an absolute majority of the votes cast by the serving members.

#### *Right to work (Article 6)*

223. Article 20 of the Constitution of Sint Maarten provides that every Dutch national's right to a free choice of work shall be recognized, without prejudice to the restrictions laid down by or pursuant to national ordinance. Furthermore, the government is committed to ensuring inclusive, safe, healthy, and productive work environments, and the fair treatment of all employees and the adherence to labor legislation. The Department of Labour, within the Ministry of Public Health, Social Development and Labour, is responsible for ensuring this.

224. The Ministry of Public Health, Social Development and Labour, through the auspices of the Labour Affairs Agency, caters to unemployed persons. These persons are referred to potential employers and guided to gain possible eligibility for financial assistance and medical aid during their period of unemployment. The aforementioned agency executes ordinances for the protection of vulnerable persons, therefore including the unemployed and those unable to meet their basic needs such as medical care, food, shelter and clothing.

#### *Unemployment*

225. In 2009 the overall unemployment rate stood at 12.2%, youth unemployment rate at 29.4%. Since then, as depicted in table 15 in the Annex, the level of unemployment has steadily decreased due to efforts to match educational skills and training with labor market needs. This is being accomplished through

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<sup>16</sup> An English translation is available on:

[http://www.sintmaartengov.org/government/AZ/laws/Organic%20Laws/AB%201\\_Staatsregeling.pdf](http://www.sintmaartengov.org/government/AZ/laws/Organic%20Laws/AB%201_Staatsregeling.pdf)

the close working relationship established between the Labour Affairs Agency and the Ministry of Education, Culture, Youth and Sports. The Labour Affairs Agency initiated a training project, Employability through Training, focusing primarily on unemployed persons aged 18-25 years and increased vocational education. Additionally, both entities sit on the Council for Education and Labour (*Raad van Onderwijs en Arbeid*), set up to gauge and guide policies and legislation to labor market dynamics and education.

226. There is a mediating committee comprising members representing unions, employers' organizations and the government, charged with improving the dialogue between social partners and, by extension, social and economic conditions on Sint Maarten. The committee has periodically agreed to increase the minimum wage and encourage labor market flexibility. In addition, the committee undertook to address issues arising out of seasonal employment and short-term contracts, as well as creating a working group to carry out periodical reviews touching on areas such as training, migrant workers, youth unemployment and cost-of-living adjustments.

*Working conditions (Article 7)*

227. The Ministry of Health, Social Development and Labour has developed and introduced a pamphlet that outlines the rights of the worker. In addition, the Labour Regulation 2000 was established to prevent harm that could occur to employees, while at work, including harm arising from excessive working hours and insufficient rest periods. This legislation includes: working hours, breaks, periods of rest, labor in full continuous service, overtime, child labor, night work, dangerous labor and labor of domestic personnel. All employees and employers contribute to the social security system via premiums. Civil servants, sailors, stevedores and self-employed workers are not covered by the policies of the labor legislation.
228. The Labour Inspectorate is responsible for the enforcement of labor legislation and labor regulations. If any breaches are detected or established, the parties

responsible will be notified and are expected to remedy the situation. Workers representatives and individual employees can seek assistance from the Complaints Section of the Labour Affairs Agency if they so desire.

#### *Social Security (Article 9)*

229. The execution of Social and Health Insurances is conducted by the *Zelfstandige Bestuursorganisatie Sociale en Ziektekostenverzekering (SZV)*. This organisation is charged with executing and managing the funds for General Old Age Pension (AOV), Widow/Widower and Orphans Pension (AWW) and Partner/Spouse Allowance.

230. Persons that are residents of Sint Maarten and have paid income taxes over the years receive social security benefits at the age of 60.<sup>17</sup> In 2015, 7% of the population collected social security benefits. In ten years' time (2025), this is estimated to be about 15% of the population, and in 2035 it is expected to account for roughly 25% of the population. Tables 16 and 17 in the Annex give further statistical information on the number of recipients of social security.

#### *Social Assistance*

231. The government of Sint Maarten provides social assistance to residents that have little or no means to live on. Access to financial assistance, medical assistance, legal assistance and crisis care is directly related to the gross monthly income of a resident of Sint Maarten and other legally stipulated criteria. Additional types of social assistance that are available to all persons residing on Sint Maarten are: counselling & guidance and crisis care arrangements via non-governmental organisations. Tables 18-20 in the Annex give statistical information on the number of recipients.

#### *Protection of the family (Article 10)*

232. The family is one of the most important pillars of Sint Maarten's society and provisions are in place for its protection in areas such as inheritance and social

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<sup>17</sup> Expected to rise to age 62 in 2018.

welfare. Moreover, the protection of children and young people and the promoting of their right to education, welfare, cultural development and leisure activities shall be the constant concern of the Government of Sint Maarten according to Article 18 of the Constitution.

#### *Divorce Law*

233. Marriage on Sint Maarten is confined to a man and a woman eighteen years of age and older. In the event of an unsuccessful marriage, a joint request, or in a situation where the couple is not separated, a request of either spouse can be made to obtain a divorce. Additional grounds for divorce have also been introduced, i.e. the 'irretrievable breakdown of marriage'.<sup>18</sup>

#### *Parentage*

234. In the Civil Code of Sint Maarten, the terms legitimate, illegitimate, and natural child have disappeared. In addition, distinctions between children born in and out of wedlock have been eliminated as extensively as possible and a married man who has a tie with a child may acknowledge it as his own. Since May 2013, following a Dutch Supreme Court verdict, a child with no legal father can now seek a judicial declaration of paternity. If proven, the child acquires the right to inherit from the father and a note to this effect is made in the Register of Births, Deaths and Marriages. The law regarding joint authority over minor children after divorce has also been amended. Following a marriage annulment, other than by death or after separation from bed and board, a parent can request the judge to establish an arrangement concerning the exercising of joint authority.<sup>19</sup> In the event of conflict between parents regarding joint authority, a request can be submitted by each of them to the court of first instance, which will be settled in the best interests of the child.<sup>20</sup>

#### *Family Name*

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<sup>18</sup> Civil Code of Sint Maarten, Article 151, related regulations Article 154.

<sup>19</sup> Civil Code of Sint Maarten, Article 251.

<sup>20</sup> Civil Code of Sint Maarten, Article 253c

235. Following a Supreme Court ruling, condemning the automatic bestowing of the paternal name on a child, amendments were made<sup>21</sup>. If a child stands in a legal familial relationship to its mother, it has her surname. If through an act of recognition the child's comes into a legal familial relationship with its father it keeps the mother's name unless both mother and the recognized father declare jointly, at the time of recognition, that the child will adopt the father's name. When a child through birth has come to stand in a legal familial relationship with both parents, both mother and father, at the time of registration, must jointly declare the choice of name or names that the child will have.<sup>22</sup>

#### *Standard of living (Article 11)*

236. The Department of Statistics in collaboration with the Department of Social Development is currently conducting studies that will eventually yield a poverty line for Sint Maarten. The Well-Being Survey has been completed and the Household Budget Survey is ongoing<sup>23</sup>. Once a poverty line has been determined, the government will be better able to determine what constitutes an adequate standard of living. These findings will also be used to inform the National Development Plan, Sustainable Development Goals and the Economic Plan. Macro-economic statistics are to be found in table 21 in the Annex.

#### *Health (Article 12)*

237. A person who publically displays materials or services, either solicited or unsolicited, which can be used to disrupt pregnancy, shall be punished with imprisonment not exceeding three months or a fine of the second category<sup>24</sup>. Any person, who intentionally treats a pregnant woman with the expectation of disturbing or disrupting her pregnancy, shall be punished with imprisonment

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<sup>21</sup> Found to be discriminatory against mothers as well as in conflict with Article 26 of the International Covenant on Civil and Political Rights (ICCPR).

<sup>22</sup> Civil Code of Sint Maarten, Book 1: Personal and Family Law.

<sup>23</sup> Upon completion of the surveys a taskforce will be created to analyze and carry out the necessary work.

<sup>24</sup> Penal Code of Sint Maarten, Article 3:51.

not exceeding four years or a fine of the fourth category.<sup>25</sup> If motivated by profit or as a criminal act this penalty may be increased by a third. The woman who is undergoing treatment, while she knows or should reasonably suspect that a pregnancy can be terminated, shall be punished with imprisonment not exceeding three years or a fine of the fourth category. If the crime is committed in the capacity of the offender's profession he/she may be barred from future practice. It has been announced that this legislation may be put under review, with the intent of decriminalization.

### *Education (Article 13)*

238. In 2009, compulsory education was introduced on Sint Maarten.<sup>26</sup> The government has increased the number of primary schools on the island, as well as the physical size of the classroom. Access to the secondary level has also increased. The National Institute of Professional Advancement, or NIPA, a vocational school for youth and adults, was opened and is able to accommodate 200-500 students. The institution provides teaching courses that are developed in tandem with the needs of the local labour market. A facility for youth needing special education and pupils with behavioural problems has also been constructed to fill the void felt by children whose needs previously surpassed the capacity of the educational system.

239. An additional school has also been opened. The increased capacity has given Sint Maarten a national teacher to student ratio of 1:15. The government has also endorsed and supports a number of initiatives vis-a-vis pastoral care, with the belief that a sound and rounded education leads to more intellectually and socially informed children that in turn can contribute to the formation of a stable civil society. Real Talk and Girl Power, programmes of the Sint Maarten AIDS Foundation, take volunteers into high schools to foster knowledge on

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<sup>25</sup> Penal Code of Sint Maarten. Article 2:270, paragraph 1.

<sup>26</sup> Discrepancy between capacity and law, i.e. execution of the law presented challenges. A phased approach to implement the law over a five-year period was used, starting with children ages 4-8. The period 2013-2014 marked the final phase of implementation.

sexual health and life choices as well as goal development and confidence building.

240. The Department of Youth Affairs' Business Outreach Placement Program (BOPP), carried out annually since 1998, offers students aged 16-24, but usually in pre-exam and exam years, structured and guided summer jobs in the public and private sector.
241. The Department of Sports has developed a plan to nurture a sports culture and improve standards in every aspect, level, and role of sport, especially regarding women. It encourages associations, federations and affiliates to provide more opportunities for women to be trained and serve in the fields of administration and in all technical aspects of the sport. The plan also calls for enhancing the voice of women in the development of plans and programs which affect them.
242. The University of the Netherlands Antilles (UNA) was officially renamed The University of Curaçao (2010). The application and eligibility process remains the same for students from within the Kingdom. Due to the economic downturn, the government of Sint Maarten has temporarily suspended the funding of scholarships in advanced education (Masters and Doctorates) and streamlined the number of scholarships awarded to those in pursuit of a Bachelor's degree. The University of St. Martin (USM), in an effort to ensure that persons are able to attain recognized, good quality, tertiary-level education, at a more reasonable price and at home, has been pursuing accreditation of its courses. As this process is time and finance consuming, the University has had to prioritize its offerings and has partnered and concluded bilateral agreements with a number of regional institutes, commencing with one a joint Bachelor of Applied Science in Electronic and Electrical Engineering (BAEEE) on Sint Maarten. In 2015 the university achieved a major milestone with the accreditation of its Hospitality and Tourism Management (HTM) programme, the first under the USM umbrella, by the Business and

Technology Education Council (BTEC) in the United Kingdom. In addition to the accreditation of the HTM programme, USM as an institution has also been accredited, increasing the prospects for students that choose to study locally.

243. Every child in Sint Maarten has the right to a general and formative primary education<sup>27</sup>. In addition to the traditional hours in a classroom, in 2007 the government implemented the Community School concept. The aim of the concept is to provide a safe learning environment for young people, ages 4 to 12, after regular school hours. As a result of this project, a large number of children from single-parent and low-income households are given homework guidance and supervision that would otherwise be limited at home. The Department of Youth Affairs is mandated to guarantee the continuity of the program in five primary schools on the island. The aim is to extend the program to two other schools by the academic year 2014/2015 and eventually to all primary schools.

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<sup>27</sup> Constitution of Sint Maarten, Article 11:2.