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EUROPEAN SOCIAL CHARTER

8th National Report on the implementation of
the European Social Charter
submitted by

THE GOVERNMENT OF CURACAO
(Caribbean part of the Kingdom of the Netherlands)

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CYCLE XXII-1 (2020)

EUROPEAN SOCIAL CHARTER

CURAÇAO

Curaçao, January, 2020

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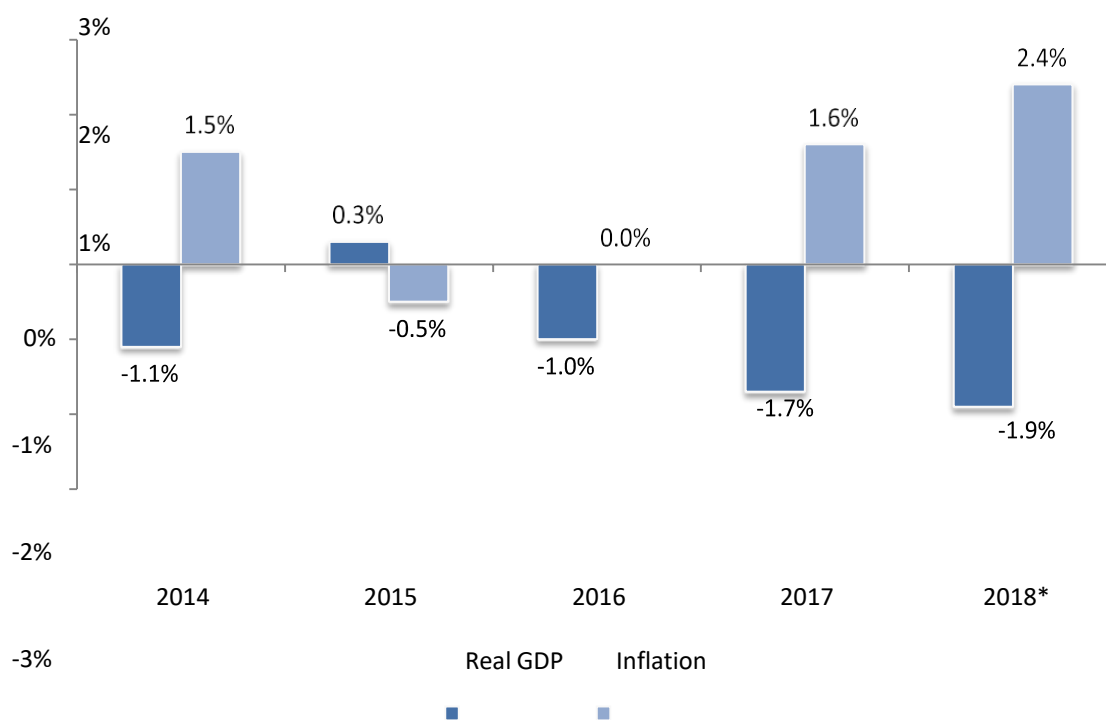
THE INTRODUCTION

THE ECONOMIC DEVELOPMENTS IN CURAÇAO

Developments in 2018

According to preliminary figures, Curaçao's real GDP contracted further by 1.9% in 2018, following a decline of 1.7% in 2017. Meanwhile, consumer price inflation rose to 2.4% in 2018, reflecting mainly an increase in international oil and food prices.

Figure 1 Curaçao: economic growth and inflation



An analysis of the GDP by expenditure shows that the expected economic contraction in 2018 was caused by a decrease in both net foreign and domestic demand. The decline in net foreign demand was the result of a drop in exports combined with higher imports. In addition, domestic demand shrank as both private and public spending contracted. Private spending went down on the back of lower private consumption while private investment remained muted. Private consumption dropped as a result of, among other things, a decline in disposable income because of the higher inflationary pressures and a worsened labor market. Furthermore, public spending dropped because of a decrease in both government investment and consumption. Public investment declined as the construction of the new hospital is reaching its final stages and because of fewer road infrastructure projects.

The lower public consumption was caused by less disbursement on goods & services and wages & salaries.

A review of GDP by sector shows that the decline in private sector activities during the first half of 2018 was attributable mainly to the transport, storage, & communication, manufacturing, construction, financial intermediation, and wholesale & retail trade sectors, mitigated by an increase in the activities in the utilities and restaurants & hotels sectors.

Real value added contracted in the transport, storage & communication sector in the first half of 2018 as a result of a decline in both harbor and airport-related activities. The poor performance of the harbor was the result of a significant drop in the number of ships piloted into the port of Curaçao, notably freighters and tankers. The decline in the number of tankers was largely related to the headwinds the refinery was facing. Meanwhile, airport-related activities dropped due to lower total passenger traffic mitigated by an increase in the number of commercial landings. The increase in commercial landings was the result of additional flights by various air carriers, including KLM, TUI, American Airlines, Copa Airlines, Jet Blue, West Jet, and Fly Always.

Real output in the manufacturing sector shrank in the first six months of 2018, primarily because of lower refining activities at the Isla refinery. The decline in crude oil supply from Venezuela, the seizure of PDVSA assets by the American oil company ConocoPhillips, and the limited steam deliveries by the CRU plant resulted in lower production activities at the refinery. The construction sector also posted negative results because several major construction projects were finished or in their final stages.

The negative contribution of financial intermediation to real GDP during the first half of 2018 was the result of a drop in real value added of both the domestic and international financial services sectors. The decline in domestic financial services sector reflected a drop in net interest income of the commercial banks, moderated by an increase in other fees & income. Meanwhile, lower wages & salaries and other operational expenses reflected in the decline in the international financial services sector.

Furthermore, the wholesale & retail trade sector recorded a contraction in the first six months of 2018 due to fewer activities in the free zone and less domestic demand, moderated by an increase in tourism spending.

By contrast, the restaurants & hotels and utilities sectors contributed positively to GDP in the first half of 2018. Growth in the restaurants & hotels sector reflected an increase in the number of stay-over visitors, the number of visitor nights, the occupancy rate, and the number of cruise tourists. The number of stay-over visitors increased mainly because of more visitors from North

America and Europe, specifically the United States, Canada, and the Netherlands. The South

American and Caribbean markets declined largely due to the lack of airlift to regional destinations because of the closing down of InselAir and the continued crisis in Venezuela. The buoyant performance of cruise tourism was related to the opening of the second mega pier and a change in itineraries by cruise lines because of the devastation caused by hurricanes Irma and Maria in popular cruise destinations in the Caribbean. The hotel occupancy rate rose also but probably reflected the increase in the number of visitors combined with fewer available hotel rooms attributable to the closure or renovation of several hotels.¹

Finally, the gain in the utilities sector was supported by more water and electricity production in the first six months of 2018 compared to the first six months of 2017.

During the first nine months of 2018, the deficit on the current budget of the government of Curaçao reached NAf.39.1 million, a drop of NAf.17.9 million compared to the first nine months of 2017. The lower deficit was caused by a decline in government expenditures (NAf.619.1 million) that surpassed the decline in revenues (NAf.601.2 million). However, this development was to a great extent the result of a decision of the government of Curaçao to no longer include the income and expenditures of the social security bank, SVB, in the current budget.² As a result of this correction, the outlays on transfer & subsidies dropped by NAf.615.4 million while nontax revenues declined by NAf.569.8 million.

¹The Marriott Beach Resort & Casino has been temporary closed for renovation, while the Plaza Hotel Curaçao and Howard Johnson Curaçao were closed.

²Based on advice from the government's auditor (SOAB), the government of Curaçao decided to no longer consolidate the expenditures and income of the social security bank, SVB, in the government's current budget. In May 2018, the government excluded all income and expenditures of the SVB over the period January – April 2018 from its current budget. In addition, as of May 2018, SVB income and expenditures are no longer included in the budget.

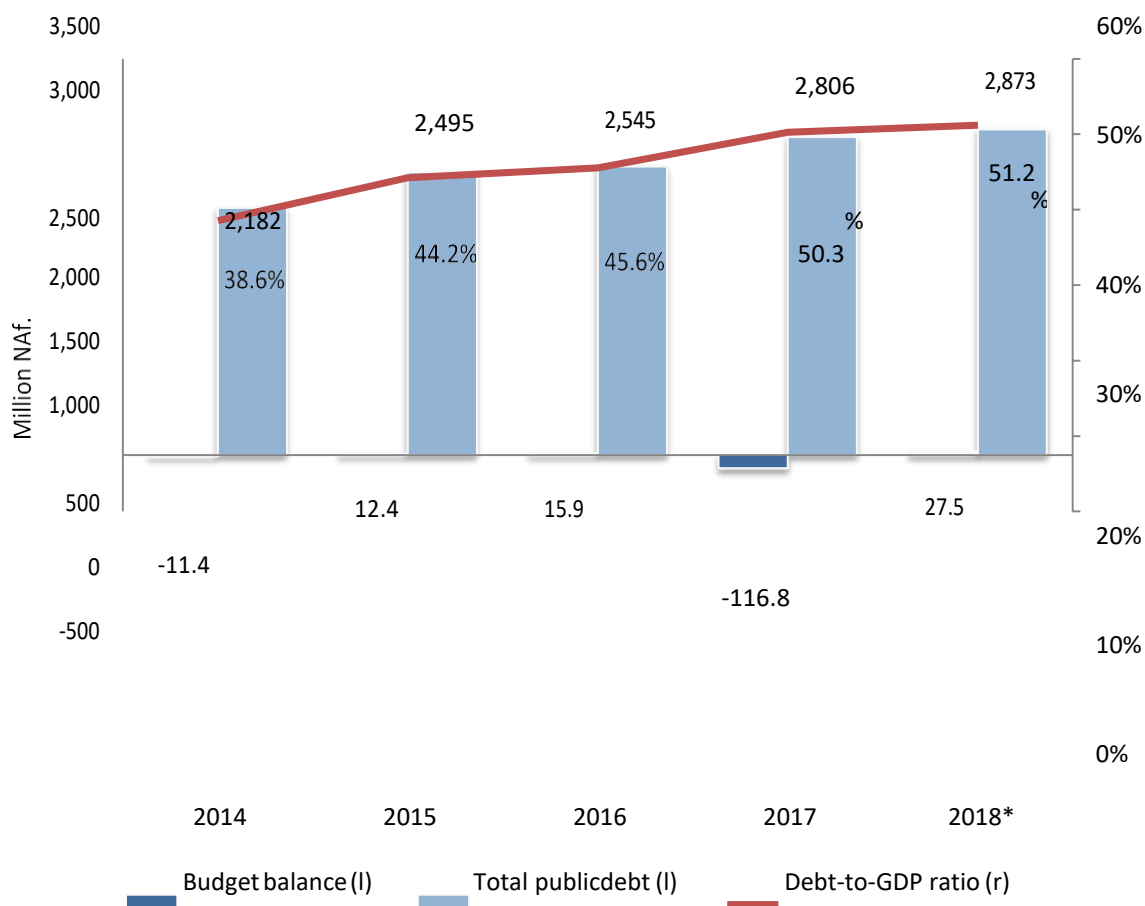
³As part of the BRNC (Belastingregeling Nederland-Curaçao) tax arrangement, all withholding tax collected on dividends paid by Dutch companies to their parent companies in Curaçao is transferred to the government of Curaçao.

⁴Source: IMF 2018 Article IV Mission - Staff Concluding Statement, November 2018.

When the income and expenditures of the SVB are also excluded in 2017, the government of Curaçao registered a budget surplus of NAf.180.8 million at the end of the first nine months of 2018 compared to the NAf.146.2 million surplus at the end of the first nine months of 2017. This improvement was caused by an increase in government revenues combined with a decline in expenditures. Revenues went up by NAf.6.7 million due to more nontax revenues, mitigated by a fall in tax revenues. The rise in nontax revenues (NAf.38.1 million) reflected a windfall in withholding tax grants related to the Belastingregeling Nederland-Curaçao (BRNC) tax arrangement between the Netherlands and Curaçao.³ Tax revenues dropped by NAf.31.4 million reflecting mostly fewer proceeds from taxes on goods & services (NAf.15.6 million), taxes on property (NAf.8.7 million), and profit tax (NAf.20.0 million). Expenditures dropped by NAf.27.9 million due mainly to lower spending on transfers & subsidies (NAf.24.2 million) caused by fewer transfers to public companies and institutions. Furthermore, government spending on “other expenditures” (NAf.12.0 million) dropped, whereas the disbursements on wages & salaries (NAf.3.5 million) and on goods & services (NAf.3.7 million) increased.

According to the latest projections,⁴ the government of Curaçao expects a surplus of NAf.27.5 million on the 2018 current budget, a turnaround compared to the deficit of NAf.116.8 million recorded in 2017. This improvement is caused by a projected increase in government revenues combined with a decline in expenditures. Revenues are projected to go up mainly as a result of higher tax proceeds, particularly taxes on income & profit and goods & services. Expenditures will drop, reflecting lower subsidies paid to public entities and lower disbursements on goods & services.

Figure 2 Curaçao: development in the public finances



*Note: 2018 is a projection.

Source: FMR of the government of Curaçao, IMF 2018 Article IV Mission – Staff Concluding Statement, November 2018, and projections of the CBCS.

The debt-to-GDP ratio of the government of Curaçao will rise to 51.2% at the end of 2018, up from 50.3% at the end of 2017. The increase in the outstanding public debt is the result of a rise in the domestic debt component only, because the foreign debt component drops. The higher domestic debt component is due particularly to the increase in outstanding arrears towards the social security bank, SVB, and the public pension fund, APC. The foreign debt component drops due to the yearly redemption of the sinking bond issued in January 2015.

FIRST SECTION

EUROPEAN SOCIAL CHARTER CURACAO period 2015-2018

Under the European Social Charter member states are committed to ensuring the effective exercise of the right to work and the objective of high and stable employment (full employment). However, changes — and potential threats — resulting from globalisation and rapid technological developments such as automation require robust and comprehensive strategies and responses, in particular education and training. In order for the labour force to be responsive to evolving needs, the policy measures adopted have to be adequately resourced and implemented vigorously and proactively. The measures must rest firmly on guarantees of basic labour rights such as non-discrimination in access to employment, equal pay for women and men and dismissal protection as well as of the rights of persons who are or may be vulnerable to particular disadvantage in the labour market, such as persons with disabilities and migrants and refugees.

In pursuance of the above States Parties are invited to provide the following information pertaining to the reference period 2015-2018:

Article 1§1*

Please provide details of labour market policy measures specifically designed to support specific groups or communities, such as: young people who have not yet entered the labour market, persons in geographical areas and communities with distinct levels of underemployment (quality) or unemployment (quantity) or experiencing severe or chronic unemployment as well as migrants and refugees;

Please include statistical information on the overall impact of employment policy during the reference period: economic growth indicators, unemployment rates broken down by gender, age and duration, public expenditure on passive and active labour market measures as a share of GDP, number of participants in active measures (training), activation rate (participants/unemployed ratio).

ANSWER to Article 1§1*

Policy measures

Statistical information

Economic growth indicators

	2015	2016	2017	2018
Inflation	-0.5%	0.0%	1.6%	2.6%
Real GDP growth	0.3	-1.0	-1.7	-2.2

Source: Central Bureau of Statistics Curaçao

Unemployment rate by gender

	2015	2016	2017	2018
Men	10.5	11.8	12.9	11.3
Women	12.8	14.6	15.2	15.4

Source: Central Bureau of Statistics Curaçao

Unemployment rate by age

	2015	2016	2017	2018
15-24 years*	29.7	36.8	32.8	29.3
25-34	13.8	14.7	18.8	18.1
35-44	10	11	11.5	12.3
45-54	9.7	10.4	11.5	9.9
55-64	6.7	7	9.2	11.4
65+	7.9	7	5	6.6

Source: Central Bureau of Statistics Curaçao * Youth unemployment rate

Unemployment by duration

Duration of unemployment	2015		2016		2017	
	men	women	men	women	men	women
Less than 1 month	6	3.4	7.7	8.6	0	4.4
1 – 3 months	19	18	12.7	13.6	8.5	12.5
4 – 6 months	13.8	7.6	15.9	13.3	14.3	9.3
7 – 12 months	20.2	22.3	22.4	14.1	26.7	18.4
Longer than 12 months	39	48.7	41.3	49.9	44.3	46.6
Not reported	1.9	0	0	0.5	6.2	8.8

Source: Central Bureau of Statistics Curaçao356

INTRODUCTION

NEW INITIATIVE

The government of Curaçao is fully aware that in order to fully comply with the obligations based on the international treaties and obligations of National Institute/ an Authority on Labour Force Development should be put in place to facilitate the match between jobseekers and employers on a more efficient way and promoting life long learning at the ages between 19- 65 years.

To this end a multidisciplinary and tripartite Steering Committee has been installed on the 16th of November 2018. The main target of this Committee is to, within six month, advice the Government on the following topics:

1. Make provisions for the deliverance of long life learning for persons between the ages of 19 and 65 years;
2. Make equipments so all institutions and schools for adult learning on the island will be accredited to deliver uniformed classes to all participants;
3. All accredited courses should be given free (without costs);
4. The facilities for vocational training will be geographical disseminated on the island to stimulate easy access for all.

A copy of the Ordinance of the institution of the Steering Committee is included in this Report; Annex I, the Ordinance on the institution of the Steering Committee is in the Dutch language.

Copies of the letters exchanged by the Ministers of Social Development Labour and Welfare and the Director of the ILO Decent Work Team and Office for the Caribbean are included below in this report section.



MINISTERIE
SOCIAL DEVELOPMENT, LABOR & WELFARE

To:
 Ms Claudia Coenjaerts
 Director of the ILO Decent Work Team
 and Office for the Caribbean
 6 Stanmore Avenue
 Port of Spain
 TRINIDAD

<i>Date:</i> 3/26/2019	<i>Contact:</i> Ingrid Ipatia	<i>E-mail address:</i> Ingrid.Isabella-Ipatia@gobiernu.cw
<i>Your letter of:</i>	<i>Your reference:</i> --	<i>Our number:</i> <i>Case number:</i> 2019/011649
<i>Subject:</i> Available technical support and guidance		<i>Page:</i> <i>No. of annexes:</i> 1 0

Dear Ms. Coenjaerts,

Dear,

As of November 16th, 2018, the Government of Curaçao installed officially a tripartite Steering Committee.

The assignment given to the Steering Committee is to, within six months, put in place a National Authority for the ongoing development of the labor force of Curaçao. Please find the official Decree of the installation of the Steering Committee in Annexure A (Language is Dutch).

This is a first initiative of our country – Curaçao – as an autonomous country (October 10th 2010) within the Kingdom of the Netherlands to put in place a National Authority in conformity with the ILO Convention 1945 [no. 88] article 2, and of the Government Decree, article 4 - b.

The Committee has held several consultations with the social partners and stakeholders. Please see Annexure B for a list of a few of these encounters.

The Committee wishes to request the support of the ILO on the following issues to support the activities to be undertaken for the installation of the units (see Annexure C) of the National Authority for the Development of the Labor Force of Curaçao:

The target group of the National Authority for the Development of the Labor Force of Curaçao will be current workers, incumbent workers, and potential workers between the age span of 19 years to 65 years. (Article 2 of the Decree in Annexure A).

In order for workers, including potential workers, to match appropriately with the labor market demands, the Committee is planning training - in the so called hard and soft skills - for these future teachers, trainers, instructors and support personnel, assigned to the Institute.

The Committee wishes these professionals to be accredited and certified according to ILO standards, and in doing accordingly, guaranteeing that these professionals are equipped with the capability to prepare the workers of the labor force of Curaçao with high quality knowledge, skills and abilities to function in the light of and within the framework of the changing world of work.



Our Reference: S/EWP/CAR

25 June 2019

The Honourable Hensley F. Koelman
Minister of the Ministry of Social Development, Labor & Welfare
Tauber building
Prinsenstraat 86
4th Floor
Willemstad
Curacao

Dear Honourable Minister,

Re: available technical support and guidance for National Authority for the Development of the Labour force of Curacao

Thank you very much for your letter and my sincere apologies for this delayed response. Let me start by congratulating you and your Government for this excellent initiative. Indeed as the ILO celebrates its Centenary year, the discourse on the future of work points to the need for a human centred approach, one which makes skilling and reskilling central. It is therefore great to see that Curacao has embarked on putting together a suitable infrastructure for this purpose. The ILO will be happy to support you in this process in any way we can and we could organize a virtual meeting to explore in more detail how we could best support you if that is helpful.

To respond to your specific question regarding information on courses, technical assistance, funding and master trainers which could be instrumental for the development of the Authority and the accreditation and certification for future teachers, trainers, instructors and support personnel, the following may be of use:

On general operations of the National Authority. Generally, the ILO Convention on HR Development, 1975 (No. 142, ratified), art. 3 and following, as well as its Recommendation from 2004 (No. 195, concerning Human Resources Development, Education, Training and Lifelong Learning) can guide you on the development of an appropriate policy/ programme for training and beyond. Note that, the growing relevance of modern and updated training methods, topics and professions is emphasised to respond to the new requirements for the "Future of Work", a topic that the 108th International Labour Conference in Geneva just elaborated broadly. Useful to also recall that ILO recommendation 195 calls for the establishment of a tripartite skills advisory board to provide advice and guidance on human resource development.

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(Full copy of this letter is to be found in Annex II).

THE CENTRE OF WORK

The current situation on the labour market registered an unemployment rate of 21,2% in April 2019 and the government left no stone unturned in its efforts to combat the unemployment rate:

Labour force of Curaçao, 2014-2019 (1)						
	2014	2015	2016	2017	2018	2019 (April)
Employed population	59,295	61,823	65,118	62,834	60,729	57,634
Unemployed population	8,555	8,198	9,953	10,313	9,424	15,464
Labour force	67,850	70,021	75,071	73,147	70,153	73,097
Economically not active population	55,871	55,670	52,268	54,870	54,113	52,116
Population 0-14 years	29,513	29,612	29,382	28,539	29,950	29,952
Population 15+ years	123,721	125,690	127,339	128,058	126,280	125,727
Total population	153,234	155,302	156,721	156,597	156,230	155,679
Participation rate (%)	44.3	45.1	47.9	46.7	44.9	47
Labour force participation rate (%)	54.8	55.7	59	57.1	55.6	58.1
Unemployment rate (%)	12.6	11.7	13.3	14.1	13.4	21.2
Employment/total population (%)	38.7	39.8	41.6	40.1	38.9	37
Employment/population 15+ (%)	47.9	49.2	51.1	49.1	48.1	45.8

One of the government's tool is the Centre of Work ('*Job Centre*' as it is called by the public), within the sector of Labor in the Ministry of Social Development, Labor and Welfare is intended to work close together with the Institute of National Development of Labour Force, officially to be installed in 2020. The intention is that the Centre of Work will gradually be better equipped in utilizing a more integral, professional and innovative approach towards the concept of life long learning, placement on the work floor, beside granting recognized certification to persons re-entering the labor market, in the spirit of the ILO Convention no 88 (organization the employment service, 1948).

PRIVATE EMPLOYMENT AGENCY

Another positive development is that the Government is undertaking serious steps to regulate the role of private employment services, as laid down in the Ordinance on Temporary Workers (P.B. 1989, no 73 of the 4th of December 1989, Annex III, in Dutch: 'Landsverordening ter beschikking stellen van arbeidskrachten')¹. Private employment services should meet the necessary legal requirements to responsibly grant job opportunities to jobseekers. Firstly, all employment agencies (private employment services) in Curaçao must have a permit. A permit must be requested at the Labour sector of the Ministry of Social Development, Labour and Welfare. The hiring out of temporary workers without permit is punishable by law.

'Hiring out temporary workers' is considered when temporary workers are made available to a third party (= user enterprise or recipient) for a fee, to perform labour in the third party's enterprise other than by virtue of a working agreement between third party and temporary worker.

It is not keeping with good faith within the labour market, for non-temporary work to be performed by temporary workers. That is why temporary workers are only allowed to be put in for work of a temporary nature. This is in case of:

1. Replacement of a temporarily absent employee;
2. Accidental increase of work;
3. Commencement of new work;
4. Urgent work that has to be performed immediately to prevent impending accident, to organize rescue measures or to repair shortcomings of the material on an installation or to company buildings which can become dangerous to employees, etc ²

So far however, the implementation arrangement of the issuance of permits by these agencies has not yet been put in place.

¹ By ordinance of December 4, 1989 (P.B. 1989 no 73) making temporary workers available to third party had been regulated. This Ordinance regulates the hiring out of temporary workers or the so called 'uitzendwezen'. More over, the Decree of October 1996 (P.B. 1996, no 139) stipulates further conditions for this activity;

² http://www.diraz.info/laborlegislation/folfer11_eng.htm

SUPERVISION

A. PERMIT PRIVATE EMPLOYMENT AGENCY

The Government is looking seriously into possibilities to start up a more intensive supervision of these employment agencies. Up till now, a transition period has been granted to the agencies and an intense information campagne has been launched to urge employment services to yet request a permit to guarantee the lawfulness of their operations.

After this period of transition, the Labour Inspection, on its turn, is entitled to enforce that the legally established requirements to be met properly. Violations will be dealt with and reported in the next regular Report of 2020 to the International Labour Organization regarding the ILO Convention no 81 (Labour inspection, 1948).

B. LEGAL PROTECTION TEMPORARY WORKER

Beside the requirements to be complied with by the employment agency, the actual work place is subjected to inspection conducted by the Labour Inspectorate, but inspections held in order to see to further legal protection of the temporary worker.

The employment agency must pay the wages, and not the user enterprise. Regarding the relationship of authority this means that the employment agency has the formal authority over the temporary worker. However, in practice it is the user enterprise, which gives instructions and assignments to the temporary worker.

In principle all legal regulations, which are applicable to the working agreement as meant in article 1613a of the Civil Code, are also applicable to the working agreement between the employment agency and the temporary worker. In particular this concerns the Ordinance on Minimum Wages, the Labour Regulation 2000, the Vacation Regulation 1949 and the Severance Pay Ordinance.

Information below is supplied by the Centre for Work ('Job Centre') and will grant the Committee an insight in the number, the amount of placement, the placement rate and the average time to fill a vacancy.

QUESTION**ANSWER****NO#**

1.	What are the number of job-seekers and unemployed persons registered at the Job Centre;	<p>Curaçao does not have a law that obliges all citizens who are searching for a job to register at the Center of Work of the Ministry of Social Development, labour and Welfare. Registering is still voluntary up to this point.</p> <p>The Ministry under various Ministers has taken initiatives to stimulate local jobseekers to register for work.</p> <p>Between March and May of 2018 many initiatives were taken and based on these initiatives voluntarily about 5000 jobseekers registered voluntarily for work.</p> <p>The largest percentage of these job-seekers was on a lower level (VSBO) and in the administrative sector.</p> <p>While vacancies were more for the petrochemical Sector.</p> <p>There is clearly a huge mismatch between the supply of jobseekers and the demand of companies in Curaçao.</p>
2.	What are number of vacancies	<p>Curaçao does not have a law that obliges all Business Owners and other organizations who are searching for qualified workers to register at the Center of Work of the Ministry of Social Development, Labour and Welfare. Only when Business Owners want to recruit foreign workers are they obliged to register their vacancies. So there are many more vacancies in Curaçao then those registered by companies who are seeking foreign workers:</p> <p>In 2018 from January till October 2nd 2018 in the Centre of Work of the Ministry: 3111 vacancies were registered. We are aware that there are more vacancies that we do not know about.</p> <p>In September 2018 under the current Minister of Social Development, Labour and Welfare a petition is registered to start the process to work on a law that obliges jobseekers but also companies and other entities seeking for qualified workers to register at the Centre of Work.</p>

3.	What were the number of vacancies	<p>Number of companies who were seeking foreign workers and posted vacancies are as follows:</p> <p>In 2010: 5128</p> <p>In 2011: 5303</p> <p>In 2012: 5223</p> <p>In 2013: 5402</p> <p>In 2014:3764</p> <p>In 2015: 4030</p> <p>In 2016: 3641</p> <p>In 2017 :3111</p> <p>In 2018: 3500</p> <p>Again there must have been more vacancies that were not registered at the Centre of Work.</p>
4.	How many local people were placed in jobs by the Sector of Labor	<p>About 300 between January till the 5th of October 2018.</p> <p>This entails all initiatives taken by the Sector of labour so activities of the Centre of Work of practical work training and also the project 1000 hoben na trabou which also had a number of initiatives to place youth between 18-30 years of age at work.</p> <p>Curaçao is going through some serious economic issues in which droves of local people are loosing their stable well paid highly productive jobs and which are not replaced by other productive jobs but by low skilled low productive service jobs. Also many previous stable companies have been retiring many workers such as InselAir and many other contractors</p>
5.	What is the placement rate (percentage of placements compared to the number of notified vacancies);	<p>The placement rate is nihil.</p> <p>The reason is that there are a substantial number of companies that are closing their doors due to an economic downturn.</p> <p>Those placed in new jobs loose these jobs again as a result of the economic stagnation.</p>

6.	What is the average time taken to fill a vacancy	The average in Curaçao in the private sector is currently 4 months The average in Curaçao in the Government is between 8 months and 2 years which is totally unacceptable.
7.	What are the placements as a percentage of total employment in the labour market	The placements are nihil at the moment due to the fact that there are no new job openings.
8.	What are the respective market shares of public and private services	This question cannot be answered at this point

Source: information is compiled out of the Year Report 2018 of the Ministry of Social Development Labour and Welfare

Article 1§2*

Please provide updated information on legislation prohibiting all forms of discrimination in employment in particular on grounds of gender.

Please indicate what measures have been taken to assess the prevalence of the problem of exploitation of vulnerability, forced labour, modern slavery? Does legislation exist to deal with the phenomenon of exploitation of vulnerability, forced labour, modern slavery and does it make provision for the identification and protection of victims, enable Prosecution of exploiters, or otherwise provide reporting requirements for businesses to detail actions taken to investigate their supply chains for forced labour, due diligence in public procurement to guarantee funds are not inadvertently supporting modern slavery? Are there regular inspections of sectors such agriculture, construction, hospitality, manufacturing and domestic work, which are particularly affected by labour exploitation?

Please provide information on any measures taken to protect workers in the “gig economy” or “platform economy” whose employment is very often precarious, against exploitation.

ANSWER to article Article 1§2*

INTRO

Curaçao has, in the last years, put some extra attention on the issue of labour exploitation of local and foreign labourers, with an emphasis on sexual exploitation of women in particular. The reasons why this shift has taken place will be explained taking into consideration the reports on the Trafficking in Persons to the US Human Rights Department in Washington, the USA.

REPORT

The Trafficking in Persons Report of 2018, issued by the Ministry of Foreign Affairs of the USA, posed that Curaçao prosecuted in 2017 two perpetrators and both were convicted to conditional sentences (the so called ‘Bandera Grill-case’). Civil servants, also involved in this trafficking case of 2016, were eventually not further prosecuted³.

The main accomplishment on the terrain of prosecution of human trafficking consisted in the fact that the last time Curaçao brought prosecutors to justice was in 2014.⁴ In conformity with the TIP report, the Government demonstrated thus increasing efforts compared to the previous

³ Newspaper ‘Amigoe’, page 1, 30 june 2018

⁴ Tip Report 2017 for Curaçao

reporting period, therefore Curaçao, in conformity with the US Human Rights State Department, remained on Tier 2.

A. EXISTENCE OF LAWS AGAINST TIP

Articles 2:239 Penal code specifically prohibits trafficking in persons.

This law is very elaborate and includes all forms of trafficking, including forced labor, forces acquisition of human organs, and/or the exploitation of minors. The first clause of the article 2:239 section 1a mentions the use of force, coercion or fraud. When it comes to adults who are victimized, the element of fraud, force or coercion has to be proved. However, when the victim is a minor, the element of force, fraud or coercion is not a necessary requirement to prove the perpetrator to be guilty on the charge of human trafficking. Also, the maximum prison sentence becomes a maximum of twelve years imprisonment, when the minor did not reach the age of sixteen years when being exploited (article 2:239 section 3 b).

Article 2:241 -2: 244 of the Penal Code also prohibits slavery

Article 2:154 of the Penal Code prohibits the smuggling of migrants

Article 2:155 of the Penal Code prohibits the employment of illegal immigrants

B. AWARENESS RAISING CAMPAIGNS DIGITALLY

A notable change for Curaçao, as experienced in the past few months, is the drastic increase in the number of Venezuelan immigrants traveling to Curaçao, legal or illegally. The number of Venezuelan illegals being deported also increased exponentially in the past years. Several obtain employment as household cleaners and some of these women become employed at the roadside bars (snèkbars) known as selling 'trago's (drinks) at dancing facilities and restaurants that in the night hours are turned into dancing venues.

The Public Prosecutor's Office conducted an investigation in 2017 with the title 'Venezuelan Trago girls: Curaçao's Secret Import'. Most undocumented women who were interrogated as part of this investigation indicated to the Public Prosecutor that they came to the island legally as tourists. After being deported, these ladies returned to the island illegally. They came to Curaçao by boat while being smuggled into Curaçao.

It is recognized that in preparing for the journey to Curaçao and performing labor at these roadside bars (snèkbars), as mentioned above, the risk of getting involved in trafficking situations is very much present. This group of women is at higher risk of being exploited.

For this reason, policy to combat trafficking in persons, is also targeted on this specific group in Curaçao and outside Curaçao (see the awareness campaign and website:<https://unsuenotraiconero.com>). The policy is mainly oriented in creating a vast realization among this group that there is a risk of a) being deported immediately if traveling illegally to the island and b) of being subjected to trafficking considering the high vulnerability within this group.

The legal aspect is addressed as well by assuring that cases are brought forward to the judicial branch. The human trafficking cases brought to court in Curaçao have increased in 2017 in comparison with previous years. In 2015, 4 cases of human trafficking were brought to court and in 2016 two cases.

Fourteen cases of human smuggling have been registered in 2017 of which nine were handled by the court. Five cases from 2017 will be presented before a judge in 2018. In the case of 'Bandera Grill-case' that started in 2016 the owner and his wife was sentenced in 2017. In this particular case four policemen have been summoned. 3 policemen received a sentence.⁵

C. HOTLINE

As for now Curaçao uses the victim assistance office telephone number (510 7575) as a hotline number. Efforts are being made to inaugurate a new number.

D. POLITICAL WILL

The political will to combat human trafficking is incorporated in the governing program 2017-2012. The Government of Curaçao has demonstrated, as shown in the governing program, a clear focus together with specific goal on tackling human trafficking in conformity with the element of protection of human rights. There is also cooperation between the partners within the Kingdom of the Netherlands and the region (Plan of Action JVO 2017 and MOT J 2015).

⁵ In appeal the owner of Bandera Grill and his wife received the same sentence as in the first instance, newspaper 'Vigilante' 20 juli 2018

The coordinator of human trafficking presented the action plan in June 2017 and the plan was presented during the regular law enforcement consultation held between all four of the Ministers of Justice in the Kingdom (Netherlands, St Maarten, Aruba and Curaçao). By launching the prevention program 'Trago girls' and the social media campaign (<http://unsuenotracionero.com>) beyond the borders of Curaçao to inform and to prevent.

E. MAJOR ACCOMPLISHMENTS

I.

As part of the implementation of the plan of action, the multidisciplinary team⁶ worked on a regular basis together in the inspection of potential groups and places of human trafficking. Result of these inspections, concluded in a campaign: 'a drink with a bitter taste: TRAGO? NO!' as already stated above.

Note has been taken, that the efforts overseas and the information being provided via a website (<https://unsuenotraiconero.com>), to inform people of Venezuela that they could be possible victims of trafficking, shows a decrease in the amount of women traveling by boat or being smuggled to enter Curaçao illegally.

There is indication from the police that in 2017, 77 women and 148 men were deported, who arrived in Curaçao by small vessels and were intercepted by the Coast Guard. Airline statistics are still being collected to verify if this shift is also occurring by Venezuelan arriving by plane. If this is the case, one can cautiously say that the campaign did have an effect.

Furthermore, this campaign was unique in Curaçao because it targeted the Venezuelan coastal region and Caracas (the capital) where people were being directed to the website when using google search words as 'trabajar en Curazao' or 'visa para Curaçao'.

Last but not least, the Government spend Nafl 61.552 (guilders⁷) on the 'Trago girls' campaign, which costs were divided between the Ministry of Justice and the Public Prosecutor's Office.

⁶ Multidisciplinary team consists of government officials from different ministries (Ministry of justice, Ministry of Social Development, Labour and Welfare, Ministry of Economic Development, Ministry of Health, Environment and Nature, Stichting Belasting Accountants Bureau (SBAB)) and the coordinator of human trafficking

⁷ 1 dollar is equivalent to 1.82 Antillean guilders

II.

The training that took place on the 19th of November and 2nd of December 2017, focused on the element of criminality in human trafficking and human smuggling and the differences between the two articles in the Penal Code. Prevention and control of trafficking in persons will be dealt with by a multidisciplinary team and with a victim centered approach. Finally, tools were provided for how to act when signaling human trafficking.

A total of 120 government officials and NGO's participated in this training.⁸

The training consisted of classroom presentations with an interactive approach.

F. OBSTACLES AND RESOURCE LIMITATIONS

While no natural disasters or civil unrest caused circumstances to impede research, the Government of Curaçao does its utmost to carry out the necessary investigation or research required to tackle human trafficking and smuggling. The Government of Curaçao encountered a deficit in financial funds and lack of capacity to conduct in-depth research and investigation to implement every step of the plan of action.

G. VICTIM IDENTIFICATION, REFERRAL & ASSISTANCE

The first information available about victims usually comes in through the police helpdesk office or through the customs police. The Victim Assistance Office (Stichting Bureau Slachtofferhulp) assists each victim based on their needs and based on the capacity of the organization. Special conditions or needs of the victim is taken into due consideration. The Victim Assistance Office works very closely with the Human Trafficking Taskforce, the Ministry of Justice and the other partners, mainly NGO's.

Currently, shelters for abused women are being used for victims of human trafficking as well, essentially meaning that while they do receive medical and psychological care, it is not particularly geared towards their needs. New policy has to be developed and implemented to

⁸ The organization represented were of the Labor inspection, Victim Care Assistance Foundation (Stichting Bureau Slachtofferhulp), Coast Guard, Public Prosecutor Office, police officers, Ministry of Justice, Ministry of Health, Ministry of Social Development Labor and Welfare, Foundation of Tax Accountants Services (Stichting Belasting Accountants Dienst, BAB), Reporting Center of Unusual Transaction, Social Security Bank (SVB-Sociale Verzekeringbank, Foundation of Social Care and Recovery (Stichting Maatschappelijke Zorg en Herstel, NGO

improve services for the victims. Free movement of the victims is limited to ensure their safety and protection. Because the shelter is specifically for battered women, the accommodation is not available for male victims of trafficking, thus men are provided shelter in hotel rooms, which again is not optimal. Additionally, the foundation could potentially provide housing for male victims in shelters at home for problematic youth, where they could receive some of the care they require. Victim costs in a shelter is Naf 135 (guilders) a day, paid by the government.

In 2017, the victim referral procedure ('draaiboek slachtoffer mensenhandel') has been successfully updated. According to this procedure, when there is a victim of trafficking in persons, all relevant organizations are enabled and activated by means of a pre-establishment plan in which the tasks and responsibilities of each organization is clearly defined. All organizations concerned contributed to the realization of this referral procedure.

I. BENEFITS FOR FOREIGN VICTIMS

Possible victims who assisted law enforcements, made claims or participated in a trial are able to stay temporary for the period of the investigation and the court case. There are special forms created for these specific cases where the possible victims can submit their request. This does not mean that they receive temporary or permanent residence status. Therefore they will not be able to work in Curaçao either. Means of living for the duration of their temporary stay during the investigation and proceedings is covered by the NGO's (government subsidy). In the event of additional costs, there is a possibility this can be covered for but only after consultation, between the Foundation for Victim Assistance and the Ministry of Justice on the request and approval of the latter.

J. RESTITUTION AND CIVIL SUITS

There are means by which a victim can file civil suits against traffickers for restitution. This also was requested for in the reporting period, but was not granted.

With this case, there was a restitution suit from the victim against the traffickers consisting of Naf 50.000,-- . The request was denied by the Court. Reasoning for the judgement was that it did not become plausible that the victim suffered any damages. Also it was maintained that the

victim lacked in her declaration to provide a full and truthful statement when she pressed charges ('Bandera Grill-case').

K. PROSECUTIONS, CONVICTIONS AND SENTENCES

There was one case in which defendants were prosecuted for trafficking in persons/sexual exploitation based on article 2:239 of the Penal Code. One other defendant, a police officer was acquitted from all allegations of being an accessory in aforementioned sexual exploitation. The judge rules that the policeman has acted in an objectionable manner, but the intent of the exploitation could not be proven.

In the 'Bandera Grill- case' where at least one victim was involved (2017) six persons were ultimately prosecuted:

Trafficker 1: convicted for trafficking. Received a suspended jail sentence of three months with a three year-probation sentence. Trafficker 2: convicted for trafficking and received a suspended jail sentence of six months and three year-probation sentence;

Police officer 1: being complicit on the acts of forgery and perjury. Received a conditional sentence of one year imprisonment, two-year probation and was suspended from the office for a period of five years. Police officer 2: being complicit on the acts of forgery and perjury. Received a conditional sentence of one year imprisonment, two-year probation and was also suspended from the office for the period of five years. Police officer 3: being complicit on the acts of forgery and perjury. Received a fully conditional sentence of nine months imprisonment, two-year probation and was suspended from the police force for the period of five years

Police officer 4: was prosecuted for human trafficking and acquitted from all charges with a note from the judge that his actions were objectionable.

The relatively low sentences are due to the short lapse of time in which the victim was exploited and due to the fact that there was only one victim involved in this case. However, in 2018 the Public Prosecutor's Office will issue guideline in which higher jail sentences in human trafficking cases will be imposed⁹

⁹ This information on Trafficking in Persons is derived from the TIP report on Curaçao to the US Human Rights State Department, 2017, by the Coordinator of the Taskforce on Human Trafficking

Article 1§3

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

ANSWER:

No Conclusion of non-conformity on this matter is known by the Government.

Article 1§4

No information requested, except where there was a conclusion of non-conformity or a deferral in the previous conclusion for your country.

ANSWER:

No Conclusion of non-conformity on this matter is known by the Government.

ARTICLE 1 of the 1998 Additional Protocol- Right to equal opportunities and equal treatment in matters of employment and occupation without discrimination on the grounds of sex

Reference is made to the report of the European Social Charter 2017, regarding the ANSWERS to the Non Conformity Conclusions to the article 1 of the Additional Protocol on pages 32 – 38 of the Report of 2017

SECOND SECTION

EUROPEAN SOCIAL CHARTER CURACAO NON CONFORMITY CONCLUSIONS

NON CONFORMITY CONCLUSIONS OF THE COMMITTEE EUROPEAN SOCIAL RIGHTS

Article 6 - Right to bargain collectively

Paragraph 1 - Joint consultation

The Committee takes note of the information contained in the report submitted by the Netherlands in respect of Curaçao.

According to the report in 2014 the social partners signed a protocol providing for a framework for a tripartite platform for social dialogue. 7 topics were identified for discussion in 2014, including labour law reform, and health and safety at work. In 2016 two committees were constituted by the platform one on Government owned enterprises and the other on labour law. The social partners have also been involved in drafting the National Development Plan. The platform has also played a role in conciliating and mediating to bring about the end to a strike.

The Committee notes that the report also refers to the Social and Economic Council, the Committee asks whether this body is still in existence and if so its current role.

Conclusion

The Committee concludes that the situation in the Netherlands in respect of Curaçao is in conformity with Article 6§1 of the 1961 Charter.

ANSWER:

Paragraph 1 – Joint Consultation

The question is raised by the Committee whether the Social and Economic Council which is mentioned in the 2014 report of Curaçao is still in existence and if so what its current role is.

In answer to that question, the following can serve: Based on the National Ordinance arranging the establishment, design, composition and competence of the Social and Economic Council

(Publication Gazette 2010, nr. 87, which is still in effect) this council (in Dutch: Sociaal-Economische Raad, SER) has the main task to advise government and Parliament on major topics of socioeconomic interest.

The SER has three main goals for the social-economic policy in Curaçao:

- To promote balanced and sustainable economic growth;
- To promote full employment;
- To promote a fair income distribution.

The SER advises on request of one or more Council of Ministers but can also do so on its own initiative. On the 24th of August 2017 (which is still in effect) a change of the abovementioned National Ordinance (Publication Gazette 2017, nr. 70) enabled the SER to also advise directly to Parliament on socio-economic matters. These can also be requested by Parliament or on its own initiative.

The SER is comprised of members representing the business community, workers representatives and independent members. These independent members are appointed on the basis of their knowledge and expertise. The foregoing indicates that the SER plays an important role in the decision-making process. For more elaborate information the following website is available in the Dutch language: www.ser.cw.

To ensure the independent role of the SER, members cannot be members of Parliament, a Minister or a member of the Advisory Council of Curaçao.

Annex IV: Publication Gazette 2010, nr. 87 & 2017, nr. 70.

Article 6 - Right to bargain collectively

Paragraph 2 - Negotiation procedures

The Committee takes note of the information contained in the report submitted by the Netherlands in respect of Curaçao.

In its previous conclusion, the Committee deferred its conclusion pending information on the number of employees covered by collective agreements (Conclusions XX-3 (2014)).

The report provides little information in this respect, it simply states that 46 new or renewed collective agreements were registered with the Labour Mediation Bureau. Therefore the Committee concludes that the situation is not in conformity with the 1961 Charter on the grounds that it has not been established that collective bargaining is sufficiently promoted.

Conclusion

The Committee concludes that the situation in the Netherlands in respect of Curaçao is not in conformity with Article 6§2 of the 1961 Charter on the ground that it has not been established that the promotion of collective bargaining is sufficient.

ANSWER

Negotiation procedures:

1. Legal framework

This area of negotiation procedures on collective bargaining and labour disputes is primarily dominated by the following legal basis:

Work Dispute Country Regulation, 1946, Annex V): the task and authority is regulated by law and a few implementation regulations, the so called Arbeidsvredebesluit I, II en III.

2. Procedure labour mediation

Both the employer as the representatives of the workers union can request the Bureau Labour Mediation to assist through negotiations by both parties in reaching and formalizing a Collective Labour Agreement. The Bureau Labour Mediation can mediate by virtue of one's one office (in the Dutch language 'ambtshalve') whenever made knowledgeable of a dispute. The Mediator is authorized to summoned parties to appear in order to assist and facilitate, with all means

available to the Bureau, by these negotiations. Both parties are obliged to appear and grant all cooperation to the Bureau Labour Mediation. The primary task of the Bureau Labour Mediation is to consult with the parties to reach a friendly arrangement to promote labour peace, in the Dutch language, 'een oplossing in der minne bereiken'.

3. Procedure strikes

If a dispute has arisen, which involves 25 workers or more and can easily lead to strike, the employer or trade union must immediately invoke the intervention of the Bureau Labour Mediation.

If the Mediator becomes aware of an impending strike, he has the authority to act upon by contacting parties without delay in an attempt to resolve matters as soon as possible with all the means at his disposal. He can summon parties involved in the dispute to appear before him. The parties are obliged to provide the Bureau Labour Mediator with all assistance and cooperation demanded.

4. Mediations and strikes during the years 2017 and 2018

In 2017: 76 mediations

13 strikes

In 2018: 47 mediations

7 strikes

Article 6 - Right to bargain collectively

Paragraph 3 - Conciliation and arbitration

The Committee takes note of the information contained in the report submitted by the Netherlands in respect of Curaçao.

The Committee previously asked if the Labour Mediation Bureau deals with the resolution of collective labour conflicts and not only with individual labour disputes. It asked if mediation and/or arbitration procedures are instituted in Curaçao for solving collective labour disputes and a description of such procedures. Pending receipt of the information requested, the Committee reserved its position on this point (Conclusions XX-3 (2014)).

According to the report the Labour Mediation Bureau intervened in 17 labour disputes, the Committee infers from the information available that the Bureau deals with the resolution of collective labour conflicts but repeats its request for information on the procedures for conciliation and mediation.

The Committee defers its conclusion once more, but highlights that if the requisite information is not provided in the next report there will be nothing to show that the situation is in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

ANSWER:

Please see Answer to the non conformity on article 6 paragraph 2, page 21 of this Report

In addition, to Labour Mediation Bureau which deals with the resolution of collective labour conflicts as stated on page 21 of this Report in previous answering the Non Conformity Conclusion on article 6 paragraph 2, the individual labour disputes about dismissal, wages or vacation days of the worker are dealt with (through mediation between the individual employer – individual worker), in contrary, is laid down by the Complaints Department within the Ministry of

Social Development Labour and Welfare. A total amount of approximately 553 complaints found their way to the latter Bureau, on a yearly basis.

Beside labour complaints (individual) the above mentioned Ministry also mediates in its Bureau for Social Mediation about conflicts such as divorces, alimony and dispute between neighbours (complaint about noise etc). Approximately 251 clients found their way, successfully, to the Bureau Social Mediation in the years 2017 and 2018.

A system of free judicial assistance, already mentioned in the Report to the European Social Charter for Curaçao, in the year 2017 on pages 23 and 24, is put in place for some decades already for all clients with a yearly income below 0 - 12.000,-- Antillean guilders. Thus this target group is fully enabled to appeal on labour disputes (dismissal, salary and vacation), on social disputes (divorce, alimony, hereditary issues and neighbour quarrels).

This same appeal provision is granted to a third group, the welfare clients, regarding unemployment benefits which were suspended or withdrawn. The free judicial assistance (funded by the government with public funds) is provided by lawyers or attorneys. The latter can register to this list of free judicial assistance, the so called 'piket lijst' at the Ministry of Justice to assist all low income clients without any cost for the client.

These lawyers listed to perform the service to community, per case, receive a compensation of approximately Naf. 1000 (thousand Antillean guilders): the so called social advocacy.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

The Committee takes note of the information contained in the report submitted by the Netherlands in respect of Curaçao.

The Committee previously requested information on the situation on the right to strike in Curaçao. The Committee pointed out that if the next report fails to provide all the necessary information there will be nothing to show that the situation in Curaçao is in conformity with the 1961 Charter (Conclusions XX-3 (2014)).

The report provides little information on the right to strike, except in respect of public servants, therefore the Committee seeks updated and complete information on the definition of collective action and the circumstances under which it is lawful, entitlement to call collective action, specific restrictions on the right to strike procedural requirements and the consequences of a strike. Meanwhile the Committee concludes that the situation is not in conformity with the 1961 Charter on the grounds that it has not been established that the right to strike is not sufficiently guaranteed.

Specific restrictions to the right to strike and procedural requirements

According to the report all restrictions on the right of public servants to strike were repealed in 2017.

The Committee refers to its general question on the right of members of the police to strike.

Conclusion

The Committee concludes that the situation in the Netherlands in respect of Curaçao is not in conformity with Article 6§4 of the 1961 Charter on the ground that it has not been established that the right to strike is not sufficiently guaranteed.

ANSWER:

The answer to this non-conformity Observation of the Committee of Experts will be divided in the situation in the private sector (under the following paragraph A) and secondly in the public sector and the public servants (under the following paragraph B)

A. The right to strike is guaranteed in the private sector

On February 6th, 2014, the social partners in Curaçao signed a protocol laying down the framework of the tripartite Platform for National Dialogue “Kòrsou ta Avansá” (roughly translates

to: Curaçao moves forward/progresses). The Council of Ministers, the boards of the two umbrella trade unions, Sentral di Sindikatonan di Kòrsou (SSK) and Central General di Trahadonan di Corsow (CGTC), the Chamber of Commerce and Industry and the Curaçao Trade and Industry Association (VBC) all participate in the platform.

The protocol acknowledges the need for tripartite consultation yet does not exclude other relevant parties in the consultations. As such, partners may propose to invite representatives of other social groups to participate depending on the specific topic(s) at hand.

The Platform is assisted by a Facilitator and Secretary who coordinate all meetings and activities. In accordance with mentioned protocol the Prime Minister chairs this consultation (or another Minister in his absence) while the Facilitator chairs the meetings thus allowing for the active participation of the Prime Minister.

In principle, the Platform adheres to the rules and norms for social dialogue and tripartite consultation adopted by the International Labor Organization (ILO) based on the principles of equality, equivalence, consensus and democratic participation. Partners interact while taking the following core values into account: mutual respect, honesty, solidarity, sincerity, commitment, perseverance, integrity, discipline, responsibility and interdependence.

The Platform for National Dialogue works in silence, with coordinated publication of achievements, on the premise of always working together while actively seeking consensus on various socio-economic issues relevant to Curaçao. The end in mind is to always serve and put the interest of Curaçao first. In doing so, the social partners have made the commitment, to the extent possible, to use existing knowledge and expertise from numerous reports and studies that have been drafted and conducted over the years and to maintain a data driven approach when discussing the issues at hand.

- **Agenda**

In 2017-2018 seven topics of interest were identified for discussion, being:

- 1) Adoption of industrial policies
- 2) Labor mobility
- 3) Modernization of labor and social laws and regulations
- 4) Safety on the job, labor inspection and labor force awareness aimed at increasing the opportunities on the job market
- 5) National Development Plan (long term)
- 6) Increase efficiency and effectiveness in government to lower the cost of services rendered
- 7) Safety & Security

According to the protocol, partners can make proposals on topics they would like to discuss. Since July 2015 the Platform has made it a point to keep abreast of developments in the community and has done so by inviting experts, organizations, companies etc. to inform the social partners and share their findings.

- **Meetings 2017-2018**

On average the Platform meetings are twice a month with the flexibility of convening additional meetings when necessary. Taking national holidays and changes in scheduling into account, about 12 regular meetings were held in 2017. Several special and emergency consultations were also held throughout the year.

- **2017 – Another eventful year with many political challenges**

Just as 2016 was an important year for social dialogue and the recognition and acceptance of the Platform in the community, 2017 posed unique challenges of its own that required the Platform for National Dialogue to come together and focus on maintaining open channels of communication amidst tense and difficult moments throughout the year.

At the end of 2016 a new cabinet was sworn in following the elections held in October 2016. However, by mid-February 2017 the cabinet lost support of one of its coalition parties in

Parliament which resulted in its demise only eight weeks after being sworn. A new coalition was formed, and an interim-cabinet was sworn in by mid-March consisting of mostly previous opposition parties.

The law prescribes that, in a situation like this, new elections should be held within a three-month period, meaning Curacao would have to hold new elections by the end of April 2017. As the interim-cabinet took office a tumultuous and tense few weeks ensued marked by high-profile politically motivated harassment of high ranking government officials, directors of state-owned foundations and companies as well as many political appointments that stirred a lot of controversy in the community.

Subsequently, a political and basically constitutional crisis arose when the interim-cabinet announced it had signed a decree postponing the mandatory elections till 2020. Legal implications aside, it is needless to say that for many in the community this was experienced as frontal attack on our democracy. Citizens organized and formally pressed charges against the sitting Council of Ministers who signed the decree.

Again, the Platform for National Dialogue played an important role in maintaining unity between the private sector and labor unions to withstand this period of heavy political instability.

The fall of the cabinet, the installation of an interim-cabinet, another cycle of campaigning for new elections combined with all the turmoil described above could not have been more ill-timed considering the huge socio-economic challenges on the table.

Unemployment was rising steadily against a backdrop of serious connectivity issues to the island and between the Dutch Caribbean islands due to amongst others the financial and managerial woes of our national carrier. In addition, insecurity about the future of the Isla Refinery and the relationship with its current operator, PDVSA, as well as a looming possibility of the deal made with a potential new operator falling through were sources of great concern that needed immediate and focused attention.

Following some tense weeks of public and political pressure, the elections were held on April 27, 2017. As was the case with the previous cabinet formation round, this time as well the Platform was formally requested to give its input on matters of interest and attention to be included in the new administration's program. On May 29, 2017 the new cabinet was sworn in.

As the tumultuous first half of the year came to an end, it reflected the deep political divide and even more so the enormous challenges amidst deteriorating social economic conditions moving forward. The Prime Minister, also in his capacity of the official president of the Platform of National Dialogue, called upon the social partners to work diligently together in an open and transparent manner and to take on our most challenging items on the agenda to start working towards structural solutions for some of our longstanding social-economic issues.

That brought the Platform of National Dialogue back full circle on the subject matter of minimum wages. A ticklish subject in general was even more so in particular given the decision of the Minister of Social Development, Labor and Welfare at the end of 2016 (three cabinets back) who announced an increase of the minimum wage going into effect as of January 1st, 2017 with subsequent annual increases till 2020 to reach the minimum living standard income level as calculated by the Central Bureau of Statistics of Curacao.

This decision was made without prior consultation of the social partners and had a serious impact on the relationships within the Platform due to grave concern about the decision-making process and the social-economic implications. After all, the social partners in the tripartite Platform nor the other formal advisory bodies of the Government were properly informed or consulted.

As per the end of 2016, (December 22) the Curaçao Trade and Industry Association (VBC) started summary proceedings against the Government on this matter and were awaiting the Court's decision.

On February 24, 2017 the Court ruled that the VBC's case as brought forward had no merit within the scope of summary proceedings and was therefore dismissed. The VBC decided to appeal the Court's decision in May 2017 with the main objective to establish whether or not the Government could indeed bypass the legally required formal consultation of official advisory bodies and councils.

In July and August 2017, proposals were made for the agenda of the Platform for the rest of year. Primarily the subject of the increase of the minimum wage would have to be addressed, not only considering the necessity and urgency but also to proof our willingness and ability to work together on important and challenging issues.

As preliminary talks started on how to go about a national dialogue on the minimum wage, the umbrella trade unions represented in the Platform requested that the Curaçao Trade and

Industry Association (VBC) withdraw their appeal as a gesture of goodwill. A court decision was expected mid-September and the VBC representatives agreed to consult their Board and members on the request. Initially the appeal was not withdrawn, later on the VBC agreed to further talks with the Government.

Setting dates and creating a framework for consultations on the subject matter proved to be a big challenge. It took about two months to agree on a tentative agenda. A round of presentations and consultations with experts on different aspects of the subject matter followed. Presentations were given among others by officials of the Ministry of Social Development, Labor and Welfare and the Ministry of Economic Development, the Central Bureau of Statistics, the Central Bank of Curacao and Saint Martin and the Social Economic Council.

It was then the turn of the social partners to present their points of view and proposed solutions. The Chamber of Commerce presented alternatives on the financing and structural solutions for the minimum wage and strategies to specifically target and solve the structural problems affecting the group of people living under the standard living income threshold. As research showed, these were not necessarily minimum wage earners and therefore the whole issue would need to be addressed with a different set of instruments.

As weeks wore on without the formal input of all partners it became evident that no consensus would be reached on the subject matter and by the end of November the Platform concluded the Government would have to take responsibility and make a decision.

However, on December 5th the group of non-affiliated unions (non-affiliated to the umbrella trade unions) called for a national strike. Their official arguments for the strike were three-fold:

- 1) They demanded an increase of the minimum wage according to their interpretation of the 2016 Ministerial Decree.
- 2) They demanded that the Government not increase the liability insurance premium on motor vehicles. Third party liability insurance for motor vehicles is mandatory but premiums are government regulated. Premiums had not been increased for almost 20 years and local insurance companies had been negotiating with the Government for years to reach an agreement on the allowed percentage of increase. Parties reached an agreement and as this became news, the unions took issue labeling this as another measure resulting in increasing costs for households (and businesses) already under pressure to manage financially.

3) They demanded a revision of the announced lay-off plan of the local state-owned telecommunications company (United Telecommunication Services). After a round of voluntary workforce cuts, a new round of lay-offs of redundant staff was announced by the company.

Even though the call for the national strike was not broadly supported within the trade unions, some (non-affiliated) unionized personnel did strike that day. An emergency Platform consultation meeting was called that lasted over five hours during which all three issues were discussed.

The biggest issue was the gap between minimum wage increase demand and the actual room to do so responsibly and legally by the Government. Representatives of the major insurance companies joined the emergency consultation to discuss their willingness to put the execution of the premium increase on hold pending a new round of consultation.

Parties agreed on ending the strike subject to:

1) Holding consultations and dialogues to establish a framework for the considerations on minimum wage and living standard moving forward as well as determining the possible increase of the minimum wage within a period of 6 months in 2018.

2) Holding consultations with the insurance companies to find better ways to manage and introduce the required premium increases. Here too a deadline for a resolution was set within the first 6 months of 2018.

3) Holding consultations with the union representing the employees of the state- owned telecommunications company to revise and guide the round of lay-offs.

▪ **Concluding notes**

As the year drew to a close, it was clear that the instable and difficult political climate and ensuing turmoil at the beginning of the year basically resulted in the first half of the year being a loss in terms of actual government and addressing of social-economic issues. On the other hand, it also served as a test of Curacao's democratic values and resilience.

The end of the year once again underlined the need and importance of tri-partite dialogue, however imperfect at times, to maintain communication between social partners, work and find ways to rise above the common challenges together.

B. The right to strike in the public sector is guaranteed

Both on national as on international level is the right to strike in the public sector guaranteed. On international basis the ratification of ILO Convention no 151 on the labour conditions in the public sector, on the 4th of May 2016, proves that Curaçao stands for the protection of labour rights in the private and the public sector.

Further more on the 29 of May 2017 the reservation on the article 6 paragraph 4 of the European Social Charter made on behalf of Curaçao, reference JJ8409C, Tr/035-36, was officially withdrawn (Attachment of the Council of Europe, Directorate of Legal Advice and Public International Law, 2nd of June 2017, Strasbourg) ANNEX VI

Introduction

Both the ILO Convention no 151 as national legislation apply to all persons employed by public authorities, to the extent that other more favorable labor conditions are not applicable. The public employee gets protection against acts of anti-union discrimination in respect to their employment.

The public employee's organizations shall enjoy complete independence from public authorities. They will also be afforded facilities to enable them to carry out their functions promptly and efficiently, during and after hours. The nature and scope of these facilities may vary.

Legal framework

The dialogue with the Government concerning the legal status of the public employee has a legal basis in Curaçao in the national ordinance on organized civil service matters (Publication Sheet 2008, nr. 70). This national ordinance lays down rules concerning the structure of consultations on matters of general interest concerning the legal status of public employees.

The ordinance institutionalizes the dialogue between the Government, represented by the Minister of Administration, Planning and Service, with the Central Committee of Trade Unions. This institutionalized dialogue, chaired by an independent chairperson appointed by national decree on the recommendation of the parties, takes place in principle once a month.

The Central Committee of Trade Unions consists of representatives of the organizations that are considered representative. There are 5 representative organizations, each represented by 3 members, for a total of 15 committee members. Deputies have been appointed for occasional substitution of each member of the Committee.

These representative organizations are:

- General Association of Government and other personnel (ABVO);
- National General Police Association (NAPB);
- Trade Union of Workers in Custom and Prosecution (STRAF);
- Trade Union of Public Employees of Police and the Justice Chain (SAP);
- Trade Union of Workers in Education on Curaçao (SITEK).

The national ordinance creates the possibility of instituting working groups to prepare on certain themes or to execute certain decisions by the Central Committee of Trade Unions and the institutionalized dialogue. In 2018 two working groups of the Central Committee of Trade Unions are finalizing their preparatory work in August. In 2016 two working groups of the Central Committee of Trade Unions were active.

Both the institutionalized dialogue (between the Government and the Central Committee of Trade Unions) and the meetings of the Central Committee of Trade Unions, to prepare for the institutionalized dialogue are supported by a Secretariat. Both platforms are governed by an internal regulation, which organizes the proceedings in the meetings.

The supporting Secretariat provides meeting room facilities, archive facilities, logistical and secretarial support. Besides that support a subsidy is provided on an annual basis, to all the Trade Unions that are part of the Central Committee of Trade Unions.

When parties in the institutionalized dialogue reach consensus, it will be formalized in a covenant. During 2014 and 2015, several covenants were signed on the following issues related to the optimization of the functioning of the government apparatus aimed to:

- control of personnel expenses in the public sector;
- incorporation of civil servants to the basic health insurance;
- compliance with rules for granting allowances;
- the extent of the formation / downsizing of the government apparatus;
- overtime;
- the adjustment of salaries due to the increase in cost of living;
- a new salary structure, a performance evaluation system, and salary ranges.
- introduction of a modified Pension Regulation for Employees in Public Service.

In 2017 only one covenant (pertaining to the government employees of the Prison) was signed. It's worthwhile mentioning, that up until today a lot of discussion is still taking place on the non-execution by the Government of most of the covenants signed in 2014. This is a major concern and reason for obvious frustration expressed by the Trade Unions represented in the Central Committee.

In cases where the parties in the institutionalized dialogue cannot reach consensus on a certain subject and thus a dispute arises, then this dispute will be submitted to the permanent Advice and Arbitration Committee, which is entitled to give a binding advice on the pertaining issue. Currently, a dispute between parties on the allocation of the costs of personnel expenses on the yearly Budget of the Country, as a result of the signed covenants, is being submitted to the Advice and Arbitration Committee.

A summarization of all the meetings of both dialogue platforms in 2017:

- The institutionalized dialogue of the Government and the Central Committee of Trade Unions took place 13 times;
- The meetings of the Central Committee of Trade Unions to prepare for the institutionalized dialogue of the Government and the Central Committee of Trade Unions took place 28 times;
- There were no meetings of the Advice and Arbitration Committee.
- There were 3 meetings of commissions though no working groups in 2017.

Annex IX contains the following informations:

(1) Publication Sheet 2008, nr. 70.

(2) Internal Regulation of the Central Committee of Trade Unions and the Institutionalized Dialogue between the Government and the Central Committee of Trade Unions.

ANNEX I

Ordinance Steering Committee INDFL, National Institute for Development Work
Force

No 2018/040084, 16th of November 2018

,,::{\ f, .f"



LANDSBESLUIT

van de **OCT 19 2018** no. **18/2-35Lf**

DE GOUVERNEUR VAN CURA<;AO

Op voordracht van de Minister van Sociale Ontwikkeling, Arbeid en Welzijn, handelende in overeenstemming met de gevoelens van de Raad van Ministers;

Inachtnemende:

De bevindingen van de beraadslagingen en de besluitvorming in de vergaderingen van de Raad van Ministers en het Platform Dialogo Nacional vanaf juni 2018 tot en met heden en de noodzaak voor de oprichting van een nationaal instituut voor vak- en beroepsopleidingen.

Overwegende:

dat in de op 10 mei 2017 overeengekomen "Akuerdo di gobemashon 2017-2021" met de missie "realisando e maksimo potenshal di Korsou" onmiskenbaar is vastgesteld dat duurzame economische groei met maximale participatie van de Curaçaoenaar prioriteit is;

dat uitgaande hiervan een adequaat arbeidsmarktbeleid, met als integraal instrument een voorziening om de benodigde werknemers optimaal te kunnen trainen, vormen en in te zetten ten behoeve van de economische ontwikkeling van Curaçao, een voorwaarde van de eerste orde is om deze ambitie te kunnen realiseren;

dat de International Labor Organization (ILO) in haar, ook door Curaçao geratificeerde, "Employment Service Convention 1948, no 88" en in diverse andere conventies aan het Land Curaçao de verplichting is opgelegd om zorg te dragen voor een voorziening die het mogelijk maakt dat werknemers en potentiële werknemers zodanig geschoold en getraind worden dat zij optimaal ingezet kunnen worden op de arbeidsmarkt en daardoor een substantiele bijdrage kunnen leveren aan de economische ontwikkeling van Curaçao;

dat ingevolge artikel 22 van de Staatsregeling van Curaçao de bevordering van voldoende werkgelegenheid voorwerp van zorg is van de overheid;

dat de Landsverordening Ambtelijk Bestuurlijke Organisatie (LABO), het ministerie van Sociale Ontwikkeling, Arbeid en Welzijn onder andere belast is met aangelegenheden van arbeid en arbeidsrelaties;

dat de regering van Curaçao het noodzakelijk acht om op korte termijn zorg te dragen voor een alternatieve voorziening die garandeert dat werknemers van Curaçao de nodige en adequate training, vakopleiding en scholing krijgen die

- hen in staat stellen om een bijdrage te leveren aan de economische ontwikkeling van Curacao;)
- dat de regering van Curacao genoodzaakt is tot het creëren van een dergelijke voorziening om te kunnen voldoen aan haar constitutionele verplichting en tevens uit diverse vastgestelde ILO-conventies voortvloeiende verplichtingen.

Geletop:

- De ILO Employment Service Convention van 1948, no.88;
- De Staatsregeling van Curacao;
- De Landsverordening Ambtelijk Bestuurlijke Organisatie;
- Het Businessplan van het ministerie van Sociale Ontwikkeling, Arbeid en Welzijn;
- Het Akuerdo di Gobemashon 2017-2021;
- Het Regeerprogramma 2017-2021;
- Het National Development Plan Curacao 2015-2030;

HEEFT GOEDGEVONDEN:

Artikel 1

Een stuurgroep in te stellen om de nodige werkzaamheden te verrichten die moeten leiden tot de oprichting van een "Instituto Nashonal pa Desaroyo di Forsa Laboral".

Artikel 2

De doelstelling van het Instituto Nashonal pa Desaroyo di Forsa Laboral is het zorgdragen voor een continue scholing en training van werknemers en potentiële werknemers van Curacao middels voldoende en gerichte aanbod van branche-gerichte vakopleidingen, bedrijfsgerichte vakopleidingen, toeleidingsvakopleidingen en van actualiseringsgerichte vakopleidingen die aansluiten op de behoeften van de arbeidsmarkt ter ondersteuning van de economische ontwikkeling van Cura ao.

Artikel3

Het functioneren van de stuurgroep geschiedt binnen de kaders en de principes van de voor Curacao geldende ILO-conventies, het Curacaaose arbeidsmarktbeleid en het economische ontwikkelingsbeleid.

Artikel4

Nader gespecificeerd zal de stuurgroep bij het opzetten van het Instituto Nashonal pa Desaroyo di Forsa Laboral rekening moeten houden met de volgende aspecten:

- a. Het Instituto Nashonal pa Desaroyo di Forsa Laboral heeft als functie het optimaliseren van de ontwikkeling van de "workforce" van Cura ao zoals dat wordt voorgeschreven door de ILO in diverse internationale verdragen;
- b. Het Instituto Nashonal pa Desaroyo di Forsa Laboral heeft een publiekrechtelijk karakter, zoals wordt gesteld in de ILO-convention. Als gevolg hiervan dient de

hen in staat stellen om een bijdrage te leveren aan de economische ontwikkelings van Cura ao;

- dat de regering van Cura ao genoodzaakt is tot het creëren van een dergelijke voorziening om te kunnen voldoen aan haar constitutionele verplichting en tevens uit diverse vastgestelde ILO-conventies voortvloeiende verplichtingen.

Geletop:

- De ILO Employment Service Convention van 1948, no.88;
- De Staatsregeling van Cura ao;
- De Landsverordening Ambtelijk Bestuurlijke Organisatie;
- Het Businessplan van het ministerie van Sociale Ontwikkeling, Arbeid en Welzijn;
- Het Akuerdo di Gobemashon 2017-2021;
- Het Regeerprogramma 2017-2021;
- Het National Development Plan Cura ao 2015-2030;

HEEFT GOEDGEVONDEN:

Artikel 1

Een stuurgroep in te stellen om de nodige werkzaamheden te verrichten die moeten leiden tot de oprichting van een "Instituto Nashonal pa Desaroyo di Forsa Laboral".

Artikel 2

De doelstelling van het Instituto Nashonal pa Desaroyo di Forsa Laboral is het zorgdragen voor een continue scholing en training van werknemers en potentiële werknemers van Cura ao middels voldoende en gerichte aanbod van branchegerichte vakopleidingen, bedrijfsgerichte vakopleidingen, toelidingsvakopleidingen en van actualiseringsgerichte vakopleidingen die aansluiten op de behoeften van de arbeidsmarkt ter ondersteuning van de economische ontwikkeling van Cura ao.

Artikel 3

Het functioneren van de stuurgroep geschiedt binnen de kaders en de principes van de voor Curai;ao geldende ILO-conventies, het Cura aose arbeidsmarktbeleid en het economische ontwikkelingsbeleid.

Artikel 4

Nader gespecificeerd zal de stuurgroep bij het opzetten van het Instituto Nashonal pa Desaroyo di Forsa Laboral rekening moeten houden met de volgende aspecten:

- a. Het Instituto Nashonal pa Desaroyo di Forsa Laboral heeft als functie het optimaliseren van de ontwikkeling van de "workforce" van Cura ao zoals dat wordt voorgeschreven door de ILO in diverse internationale verdragen;
- b. Het Instituto Nashonal pa Desaroyo di Forsa Laboral heeft een publiekrechtelijk karakter, zoals wordt gesteld in de ILO-convention. Als gevolg hiervan dient de

- regering van Cura ao zorg te dragen voor professionele scholing/training en nascholing/re-training van de "workforce" van Cura ao teneinde te kunnen voldoen aan de vraag van de arbeidsmarkt en de economische ontwikkeling;
- c. Het Instituto Nashonal pa Desaroyo di Forsa Laboral dient een essentieel en conceptueel instrument te zijn voor de realisering van het arbeidsmarktbeleid van Cura,;ao;
 - d. Uitgaande van het principe van de vigerende wet- en regelgeving is het noodzakelijk om de verzorging van "workforce development" op Cura ao te verankeren in een wettelijke basis;
 - e. In aanvulling op het principe van "goed werkgeverschap" is het noodzakelijk om te komen tot een wettelijke verankering van de scholingsplicht, zoals dat internationaal gebruikelijk is;
 - £. Het Instituto Nashonal pa Desaroyo di Forsa Laboral dient zes maanden na dagtekening opgericht te zijn.

Artikel 5

1. De stuurgroep wordt als volgt samengesteld:
 - Orie leden worden aangewezen door de Minister van Sociale Ontwikkeling, Arbeid en Welzijn;
 - Een lid wordt aangewezen door de Minister van Economische Ontwikkeling;
 - **Een** lid wordt aangewezen door de Minister van Onderwijs, Wetenschap, Cultuur en Sport
 - Een lid wordt aangewezen door het bedrijfsleven;
 - Een lid wordt aangewezen door het vakbondswezen.
2. De Minister van Sociale Ontwikkeling, Arbeid en Welzijn wijst uit de leden van de stuurgroep een voorzitter aan.
3. Voor nadere uitwerking van deelaspecten van de uit te voeren opdracht en voor deelname aan het overleg van de stuurgroep zullen ter zake deskundigen, individueel of in werkgroepen, uitgenodigd worden.

Artikel 6

De stuurgroep ontwikkelt het Instituto Nashonal pa Desaroyo di Forsa Laboral in nauwe samenwerking met een door de Minister van Sociale Ontwikkeling, Arbeid en Welzijn ingestelde klankbordgroep.

Artikel 7

1. De stuurgroep resorteert als project onder de aansturing en verantwoordelijkheid van de Minister van Sociale Ontwikkeling, Arbeid en Welzijn.
2. De voorzitter van de stuurgroep rapporteert om de twee weken schriftelijk aan de Minister van Sociale Ontwikkeling, Arbeid en Welzijn.

3. De Minister van Sociale Ontwikkeling, Arbeid en Welzijn rapporteert maandelijks over de voortgang van de werkzaamheden aan de Raad van Ministers.

Artikel 8

1. Het functioneren van de stuurgroep wordt gefaciliteerd door het ministerie v-an Sociale Ontwikkeling, Arbeid en Welzijn.
2. De voorzitter van de stuurgroep is belast met de aansturing en coördinatie van de werkzaamheden en het functioneren van de stuurgroep, werkgroepen en klankbordgroep. Hij draagt tevens zorg voor de organisatie, de voorbereiding, het leiden van de beraadslagingen, het vastleggen van de afspraken, de naleving van deze afspraken en het informeren van de Minister van Sociale Ontwikkeling, Arbeid en Welzijn.
3. De besluitvorming in de stuurgroep vindt plaats op basis van consensus. Indien consensus niet mogelijk is, wordt het discussieonderwerp voorgelegd aan de Minister van Sociale Ontwikkeling, Arbeid en Welzijn, onder vennedding van het verschil van zienswijze(n), die een besluit neemt.

Artikel 9

1. Alvorens tot finale besluitvorming ter oprichting van het Instituto Nashonal pa Desaroyo di Forsa Laboral over te gaan, raadpleegt de Minister van Sociale Ontwikkeling, Arbeid en Welzijn het "Plataforma Dialogo Nashonal".
2. Het resultaat van de werkzaamheden van de stuurgroep wordt als advies aangeboden aan de Minister van Sociale Ontwikkeling, Arbeid en Welzijn die dit ter vaststelling voorlegt aan de Raad van Ministers.

Artikel 10

De stuurgroep wordt ingesteld voor de duur van zes maanden en kan op verzoek van de Minister van Sociale Ontwikkeling, Arbeid en Welzijn, na de Raad van Ministers terzake te hebben gehoord, voor bepaalde tijd worden verlengd.

Artikel 11

1. Administratieve kosten voortvloeiende uit de werkzaamheden van de stuurgroep komen ten laste van de begroting van het ministerie van Sociale Ontwikkeling, Arbeid en Welzijn.
2. Leden van de stuurgroep, niet zijnde actieve ambtenaren of medewerkers van een kabinet van een minister, komen in aanmerking voor een vergoeding ten bedrage van Naf. 125,00 per vergader uur met een maximum bedrag van Naf. 5.000,-- per persoon per maand, exclusief OB. Hierbij zijn de minimale vergaderuren gecalculeerd op gemiddeld 40 uren per maand per persoon.

3. De Minister van Sociale Ontwikkeling, Arbeid en Welzijn rapporteert maandelijks over de voortgang van de werkzaamheden aan de Raad van Ministers.

Artikel 8

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2. De voorzitter van de stuurgroep is belast met de aansturing en coördinatie van de werkzaamheden en het functioneren van de stuurgroep, werkgroepen en klankbordgroep. Hij draagt tevens zorg voor de organisatie, de voorbereiding, het leiden van de beraadslagingen, het vastleggen van de afspraken, de naleving van deze afspraken en het informeren van de Minister van Sociale Ontwikkeling, Arbeid en Welzijn.
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Artikel 12

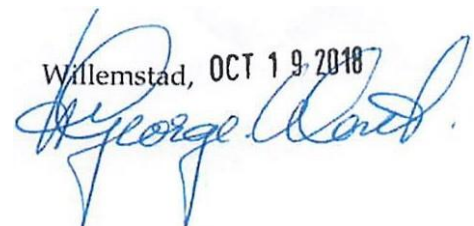
Dit landsbesluit treedt in werking met ingang van de datum van ondertekening.

Afschrift van dit landsbesluit wordt gezonden aan:

de Raad van Ministers,
de Algemene Rekenkamer,
de Stichting Overheidsaccountantsbureau,
de Secretaris-generaal van het Ministerie van Sociale Ontwikkeling, Arbeid en Welzijn,
de Secretaris-generaal van het Ministerie van Economische Ontwikkeling;
de Secretaris-generaal van het Ministerie van Onderwijs, Wetenschap, Cultuur en Sport
het Sentral Sindikatonan di Korsou
het Sentral General di Trahadnan di Korsou
de Kamer van Koophandel
de Vereniging Bedrijfsleven Cura a.o.



De Minister van Sociale Ontwikkeling,
Arbeid en Welzijn,

Willemstad, OCT 19 2018


ANNEX II

Letter of the ILO Decent Work Office for the Caribbean, 25 June 2019 to the
Minister of Social Development Labour and Welfare of Curacao



**SOCIAL JUSTICE
DECENT WORK**

Our Reference: S/EMP/CAR

25 June 2019

The Honourable Hensley F. Koeiman
Minister of the Ministry of Social Development, Labor & Welfare
Tauber building
Prinsenstraat 86
4th Floor
Willemstad
Curacao

Dear Honourable Minister,

**Re: available technical support and guidance for National Authority for
the Development of the Labour force of Curacao**

Thank you very much for your letter and my sincere apologies for this delayed response. Let me start by congratulating you and your Government for this excellent initiative. Indeed as the ILO celebrates its Centenary year, the discourse on the future of work points to the need for a human centred approach, one which makes skilling and reskilling central. It is therefore great to see that Curacao has embarked on putting together a suitable infrastructure for this purpose. The ILO will be happy to support you in this process in any way we can and we could organize a virtual meeting to explore in more detail how we could best support you if that is helpful.

To respond to your specific question regarding information on courses, technical assistance, funding and master trainers which could be instrumental for the development of the Authority and the accreditation and certification for future teachers, trainers, instructors and support personnel, the following may be of use:

On general operations of the National Authority. Generally, the ILO Convention on HR Development, 1975 (No. 142, ratified), art. 3 and following, as well as its Recommendation from 2004 (No. 195, concerning Human Resources Development, Education, Training and Lifelong Learning) can guide you on the development of an appropriate policy/ programme for training and beyond. Note that, the growing relevance of modern and updated training methods, topics and professions is emphasised to respond to the new requirements for the "Future of Work", a topic that the 108th International Labour Conference in Geneva just elaborated broadly. Useful to also recall that ILO recommendation 195 calls for the establishment of a tripartite skills advisory board to provide advice and guidance on human resource development.

**INTERNATIONAL LABOUR ORGANIZATION
DECENT WORK TEAM AND OFFICE FOR THE CARIBBEAN**

In terms of assistance for the general operations of the authority, taking into consideration the need to prioritize given limited resources, the ILO could provide technical advice in one or more of the following areas:

- a. Forecast and identify training needs;
- b. Establish and monitor training standards and its delivery;
- c. Conduct testing and certification;
- d. Harmonize activities in education and training systems at both formal and non-formal levels;
- e. Collect occupational information by sectors;
- f. Evaluate the training system for efficiency and effectiveness;
- g. Monitor and advise training institutions on curricula activities; and
- h. Monitor instructor training, and develop programmes for professional
- i. Development of instructors.

For what concerns the specific training requests mentioned in your letter:

- j. On soft skills: Training in employability or soft skills can be delivered by the skills specialist, Port of Spain Office.
- k. On Hard Skills or Technical skills: the ILO needs to know exactly what technical skills are needed and in which occupational areas to provide further advice.
- l. On certification of teachers in Curacao, more information is needed to determine type of certification required.

Further assistance may be available but would need to be fine-tuned upon the envisaged scope of operation of the authority. Specifically, whether the new Authority will cater for the labour force in Curacao in the private sector only, or if it will also include major requirements stipulated for the public sector, or those at the crossroads for public/private execution (e.g. certain labour inspection functions, particularly in areas of OSH) and whether the authority will address the fundamental Workers' Rights and education on self-employment and SME development in its curricula. Here too, while the ILO has the technical capacity to support you in this process and stands ready to do so, it is important to note that new resources would have to be allocated if we are to provide substantial support.

In terms of assistance for the general operations of the authority, taking into consideration the need to prioritize given limited resources, the ILO could provide technical advice in one or more of the following areas:

- a. Forecast and identify training needs;
- b. Establish and monitor training standards and its delivery;
- c. Conduct testing and certification;
- d. Harmonize activities in education and training systems at both formal and non-formal levels;
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- l. On certification of teachers in Curacao, more information is needed to determine type of certification required.

Further assistance may be available but would need to be fine-tuned upon the envisaged scope of operation of the authority. Specifically, whether the new Authority will cater for the labour force in Curacao in the private sector only, or if it will also include major requirements stipulated for the public sector, or those at the crossroads for public/private execution (e.g. certain labour inspection functions, particularly in areas of OSH) and whether the authority will address the fundamental Workers' Rights and education on self-employment and SME development in its curricula. Here too, while the ILO has the technical capacity to support you in this process and stands ready to do so, it is important to note that new resources would have to be allocated if we are to provide substantial support.

On the authority and national employment services. From the point of view of Convention C88, as it is our understanding that the work of the National Authority is envisaged within -or as a complement to- the National employment service, we would recommend tools that support operations of the latter and that aim at determine future labour market trends. As examples, we could refer to:

- m. Trainings that the Office routinely organizes on employment services and their functioning. Those courses generally follow the contents of the ILO manual "Practitioners' guides on employment service centres"
- n. Trainings on the analysis of labour market data and information for the goal of determining skills and labour market trends. The reference in this case is the ILO "Methodological guides on anticipation and matching of skills supply and demand".
- o. Additionally, within the scope of the activities of the ILO Training Centre in Turin, Italy, two week-long courses organized by the centre, could be of particular relevance: one in "Sectoral approaches to skills development" and the other in "Career guidance: policy and practice".

The above is just an attempt to lay out areas of existing technical expertise in the office. Further determining how we can best help would depend on your specific needs and expectations. For instance, while conducting a webinar on one of the topics, or pointing you to specific manuals, is easy to commit to, if we are to conduct substantive training or workshops we would need to identify funding for travel and consultants. Similarly the timeline would be of importance as our team is already substantially committed for the remainder of 2019.

Accept, Honourable Minister, t

IPmy
L, / /

highest consideration.

Clab-dra Coenjaerts
Director

ILO Decent Work Team and Office for the Caribbean

CC/DR/HN/RP/rl

ANNEX III

PB 1989 no 73, Ordinance on hiring temporary workers by a third party

ANN EX- t I**LANDSBESLUIT OP HET TER BESCHIKKING STELLEN
ARBEIDSKRACHTEN**

Landsbesluit van de 25^{ste} oktober 1996 ter uitvoering van artikel 8 van de Landsverordening op het ter beschikking stellen arbeidskrachten (P.B. 1989, no. 73). tekst in P.B. 1996, 139; inwtr. m.i.v. 1 nov. 1996; gewijzigd bij:

1. Lbham van 7 augustus 2000 (P.B. 2000, 81), inwtr. m.i.v. 1 september 2000;

Artikel 1

In dit landsbesluit wordt verstaan onder:

a. landsverordening : de Landsverordening op het ter beschikking stellen arbeidskrachten (P.B. 1989, no. 73);

b. vergunning een vergunning als bedoeld in artikel 2, eerste lid, van de landsverordening.

Artikel 2

De houder van een vergunning vermeldt in de door hem gevoerde correspondentie het nummer en kenmerk van zijn vergunning draagt er zorg voor dat de vergunning in zijn vestiging of vestigingen op een voor zowel ter beschikking te stellen arbeidskrachten als ondernemingen die voornemens zijn arbeidskrachten in te lenen gemakkelijk toegankelijke plaats zo danig is opgehangen dat deze duidelijk leesbaar is.

Artikel 3

De houder van een vergunning stelt een arbeidskracht ten hoogste gedurende een tijdvak van 12 maanden aan dezelfde onderneming ter beschikking.

Artikel 4

1. Twee opeenvolgende terbeschikkingstellingen door de houder van een vergunning van dezelfde arbeidskracht aan dezelfde onderneming gelden als een doorlopende terbeschikkingstelling, wanneer de duur van het tussenliggende tijdvak minder dan drie maanden bedraagt.
2. In geval een arbeidskracht aan een onderneming ter beschikking wordt gesteld ter vervanging van een eerder door de houder van een vergunning aan de onderneming ter beschikking gestelde arbeidskracht, gelden beide terbeschikkingstellingen als een door lopende terbeschikkingstelling, wanneer de duur van het tussenliggende tijdvak minder dan drie maanden bedraagt.

[1]

Artikel 5

Indien een arbeidskracht door de houder van een vergunning aan een onderneming ter beschikking is gesteld en deze arbeidskracht daarna binnen een tijdvak van dertig dagen bij dezelfde onderneming werkzaam is geweest op basis van een arbeidsovereenkomst voor bepaalde duur, stelt de houder van een vergunning deze arbeidskracht niet binnen een tijdvak van dertig dagen na het verstrijken van die duur opnieuw ter beschikking aan dezelfde onderneming.

Artikel 6

1. De houder van een vergunning kent aan ter beschikking gestelde arbeidskrachten lonen en overige vergoedingen toe overeenkomstig die welke worden toegekend aan werknemers, werkzaam in gelijke of gelijkwaardige functies in dienst van de inlenende onderneming.
2. Het eerste lid geldt niet, indien ten aanzien van de onderneming die de arbeidskrachten ter beschikking stelt een collectieve arbeidsovereenkomst van toepassing is, met betrekking tot de lonen en overige vergoedingen van de ter beschikking gestelde arbeidskrachten.
3. Het eerste lid is evenmin van toepassing indien op de inlenende onderneming een collectieve arbeidsovereenkomst van toepassing is waarin bepalingen zijn opgenomen ten aanzien van lonen en overige vergoedingen die betrekking hebben op de ter beschikking gestelde arbeidskrachten in de inlenende onderneming.

Artikel 7

De houder van een vergunning legt aan arbeidskrachten geen verplichtingen op of belemmeringen in de weg ter zake van het al dan niet aangaan van een arbeidsverhouding.

Artikel 8

De houder van een vergunning stelt geen arbeidskrachten ter beschikking indien hij weet of redelijkerwijs kan weten dat dit leidt tot handelen in strijd met de openbare orde of goede zeden.

Artikel 9

De houder van een vergunning geeft aan het bestuurscollege van het desbetreffende eilandgebied voorafgaand schriftelijk kennis van:

- a. wijziging in de rechtsvorm van de onderneming;
- b. wijziging in de leiding van de onderneming;
- c. wijziging in de bevoegdheid tot vertegenwoordiging van de onderneming, onder vermelding van naam en adres van de persoon die de bevoegdheid verkrijgt;
- d. wijziging van het adres van de onderneming of van degenen die hierover de leiding heeft;
- e. opening en sluiting van filialen of nevenvestigingen die zich met ter beschikking stellen van arbeidskrachten gaan bezighouden.

Indien een arbeidskracht door de houder van een vergunning aan een onderneming ter beschikking is gesteld en deze arbeidskracht daarna binnen een tijdvak van dertig dagen bij dezelfde onderneming werkzaam is geweest op basis van een arbeidsovereenkomst voor bepaalde duur, stelt de houder van een vergunning deze arbeidskracht niet binnen een tijdvak van dertig dagen na het verstrijken van die duur opnieuw ter beschikking aan dezelfde onderneming.

Artikel 6

1. De houder van een vergunning kent aan ter beschikking gestelde arbeidskrachten lonen en overige vergoedingen toe overeenkomstig die welke worden toegekend aan werknemers, werkzaam in gelijke of gelijkwaardige functies in dienst van de inlenende onderneming.
2. Het eerste lid geldt niet, indien ten aanzien van de onderneming die de arbeidskrachten ter beschikking stelt een collectieve arbeidsovereenkomst van toepassing is, met betrekking tot de lonen en overige vergoedingen van de ter beschikking gestelde arbeidskrachten.
3. Het eerste lid is evenmin van toepassing indien op de inlenende onderneming een collectieve arbeidsovereenkomst van toepassing is waarin bepalingen zijn opgenomen ten aanzien van lonen en overige vergoedingen die betrekking hebben op de ter beschikking gestelde arbeidskrachten in de inlenende onderneming.

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De houder van een vergunning stelt geen arbeidskrachten ter beschikking indien hij weet of redelijkerwijs kan weten dat dit leidt tot handelen in strijd met de openbare orde of goede zeden.

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- a. wijziging in de rechtsvorm van de onderneming;
- b. wijziging in de leiding van de onderneming;
- c. wijziging in de bevoegdheid tot vertegenwoordiging van de onderneming, onder vermelding van naam en adres van de persoon die de bevoegdheid verkrijgt;
- d. wijziging van het adres van de onderneming of van degenen die hierover de leiding heeft;
- e. opening en sluiting van filialen of nevenvestigingen die zich met ter beschikking stellen van arbeidskrachten gaan bezighouden.

Artikel 10

Het is de houder van een vergunning, die overgaat tot overname van een onderneming die of van een onderdeel van de onderneming dat zich met het ter beschikking stellen van arbeidskrachten bezig houdt, behoudens voorafgaande schriftelijke toestemming van het bestuurscollege, niet toegestaan het ter beschikking stellen van arbeidskrachten voort te zetten dat geschiedde door de overgenomen onderneming, respectievelijk het overgenomen onderdeel van die onderneming.

Artikel 11

Het is de houder van een vergunning, behoudens voorafgaande schriftelijke toestemming van het bestuurscollege, niet toegestaan het ter beschikking stellen van arbeidskrachten voort te zetten in geval van verkoop of overdracht anderszins van de onderneming die of van een onderdeel van de onderneming dat zich met ter beschikking stellen van arbeidskrachten bezighoudt.

Artikel 12

1. De houder van een vergunning voert een gescheiden administratie die wekelijks wordt bijgehouden en die per onderneming aan welke arbeidskrachten ter beschikking warden gesteld, tenminste de volgende gegevens bevat:
 - a. naam en adres van de onderneming, alsmede de aard van deze onderneming;
 - b. naam, voornamen, geboortedatum en woonplaats van de ter beschikking gestelde arbeidskracht
 - c. de functie waarin de arbeidskracht ter beschikking wordt gesteld, alsmede het tijdstip van aanvang en beëindiging van de terbeschikkingstelling
 - d. het toegekende bruto-uurloon dan wel het per week toegekende brutoloon met uitsluiting van vergoedingen;
 - e. reserveringen die meer dan een week omvatten;
 - f. vergoedingen, gesplitst in reiskostenvergoedingen en overige vergoedingen;
 - g. het aantal gewerkte uren per week.
2. De houder van een vergunning draagt er zorg voor dat de gegevens die in zijn administratie zijn opgenomen tenminste gedurende vijf jaar na het tijdstip van opname in die administratie behouden blijven.

Artikel 13

1. De houder van een vergunning verstrekt aan het bestuurscollege van het desbetreffende eilandgebied tenminste eenmaal per jaar kosteloos de door het bestuurscollege gevraagde gegevens betreffende ter beschikking stellen van arbeidskrachten met gebruikmaking van een door het bestuurscollege daartoe verstrekt formulier en binnen een door het bestuurscollege gestelde termijn.
2. De houder van een vergunning verstrekt eveneens maandelijks de mutaties van de in het eerste lid bedoelde gegevens kosteloos aan het bestuurscollege van het betrokken eilandgebied met gebruikmaking van een door het

bestuurscollege daartoe verstrekt formulier en binnen een door het bestuurscollege gestelde termijn.

3. De modellen van de in het eerste en tweede lid bedoelde formulieren worden vastgesteld bij eilandbesluit houdende algemene maatregelen.

Artikel 14

Dit landsbesluit treedt voor een eilandgebied in werking met ingang van de dag waarop de Landsverordening op het ter beschikking stellen arbeidskrachten (P.B. 1989, no. 73) voor dat eilandgebied in werking treedt.

Artikel 15

Dit landsbesluit kan worden aangehaald als: Landsbesluit op het ter beschikking stellen arbeidskrachten.

Gegeven te Curacao, 25 oktober 1996
J.M. Saleh

De Minister van Arbeid en Sociale Zaken
M.F. Willem

De Staatssecretaris van Economische Zaken,
D.E. Hassell

Uitgegeven de 31st oktober 1996

De Minister van Algemene Zaken
M.A. Pourier

<http://soaw.info/wettxt/wet-tekst8a.htm>

1/15/2020

bestuurscollege daartoe verstrekt formulier en binnen een door het bestuurscollege gestelde termijn.

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ANNEX IV

ANSWER to Non Conformity Conclusion article 6 par. 1 European Social Charter:

- PB 2017 no 70, Ordinance Social Economic Council of Cura ao,

The Council is now not only authorized to give advise the Government but also to the Parliament

- A.B. 2010 no 87, Ordinance Social Economic Council of Cura ao,

The appointed tasks, amount of members and the President of the Social Economic Council etc



PUBLICATIEBLAD

LANDSVERORDENING van de 24st augustus 2017 houdende wijziging van de Landsverordening Sociaal Economische Raad

In naam van de Koning!

De Gouverneur van Curaçao,

In overweging genomen hebbende:

dat het wenselijk is een aantal wijzigingen aan te brengen in de Landsverordening Sociaal Economische Raad ¹ mede strekkende tot verdere versterking van de rol van de Raad bij de totstandkoming van het te voeren sociaal en economisch beleid, en in het bijzonder de wet- en regelgeving ten aanzien van deze gebieden;

Heeft, de Raad van Advies gehoord, met gemeen overleg der Staten, vastgesteld onderstaande landsverordening:

Artikel I

De Landsverordening Sociaal Economische Raad wordt gewijzigd als volgt:

A Artikel 2 komt te luiden:

Artikel 2

1. De Raad heeft tot taak de regering en de Staten van advies te dienen over de hoofdlijnen van het te voeren sociaal en economisch beleid, aangelegenheden van sociale of economische aard en over wettelijke regelingen van sociaal-economische aard.

¹ A.B. 2010, 87, bijlage p.

2. De Raad brengt zijn adviezen uit op daartoe strekkend verzoek van een of meer ministers, of van de voorzitter van de Staten.
3. De Raad kan eveneens uit eigen beweging de regering of de Staten van advies dienen over onderwerpen van sociaal-economische aard, alsmede de uitvoering van deze landsverordening.

B Artikel 3 komt te luiden:

Artikel 3

1. In afwijking van de Landsverordening adviescolleges² bestaat de Raad uit negen leden bij landsbesluit te benoemen.
2. Er worden:
 - a. drie leden benoemd ter vertegenwoordiging van de werkgeversbelangen;
 - b. drie leden ter vertegenwoordiging van de werknemersbelangen; en
 - c. drie leden ter vertegenwoordiging van andere belangen dan die van het bedrijfsleven. Deze leden zijn geen actief dienend ambtenaar noch in dienst van de openbare rechtspersoon Curaao.
3. De leden, bedoeld in het tweede lid, onderdelen a en b, worden benoemd op schriftelijke voordracht van algemeen erkende representatieve organisaties van werkgevers respectievelijk werknemers.
4. De leden, bedoeld in het tweede lid, onderdeel c, worden benoemd op voordracht van de Raad.
5. Bij landsbesluit, houdende algemene maatregelen, wordt een profielschets voor de leden en de plaatsvervangende leden van de Raad vastgesteld.
6. Bij landsbesluit, houdende algemene maatregelen, kunnen nadere regels worden gesteld met betrekking tot de representativiteit van organisaties van werkgevers en werknemers.

C Artikel 8 komt te luiden:

Artikel 8

1. De voorzitter en diens plaatsvervanger worden op voordracht van de Raad bij landsbesluit benoemd en ontslagen.
2. De voorzitter wordt uit de onafhankelijke leden, bedoeld in artikel 3, tweede lid, onderdeel c, van de Raad benoemd.

[11]

² A.B. 2010, 87, bijlage g.

2. De Raad brengt zijn adviezen uit op daartoe strekkend verzoek van een of meer ministers, of van de voorzitter van de Staten.
3. De Raad kan eveneens uit eigen beweging de regering of de Staten van advies dienen over onderwerpen van sociaal-economische aard, alsmede de uitvoering van deze landsverordening.

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 - c. drie leden ter vertegenwoordiging van andere belangen dan die van het bedrijfsleven. Deze leden zijn geen actief dienend ambtenaar noch in dienst van de openbare rechtspersoon Curacao.
3. De leden, bedoeld in het tweede lid, onderdelen a en b, worden benoemd op schriftelijke voordracht van algemeen erkende representatieve organisaties van werkgevers respectievelijk werknemers.
4. De leden, bedoeld in het tweede lid, onderdeel c, worden benoemd op voordracht van de Raad.
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2. De voorzitter wordt uit de onafhankelijke leden, bedoeld in artikel 3, tweede lid, onderdeel c, van de Raad benoemd.

[12]

² A.B. 2010, 87, bijlage g.

3. De plaatsvervangend voorzitter wordt jaarlijks bij afwisseling benoemd uit de leden die de werkgeversbelangen vertegenwoordigen en uit de leden die de werknemersbelangen vertegenwoordigen.
4. De secretaris en zijn plaatsvervanger worden, op voordracht van de Raad, bij landsbesluit benoemd, geschorst en ontslagen. De secretaris staat aan het hoofd van het secretariaat.
5. Het overig personeel van het secretariaat wordt op voordracht van de Secretaris bij landsbesluit, benoemd, geschorst of ontslagen.

D Artikel 12 komt te luiden:

Artikel 12

1. De Raad is bevoegd anderen tot de beraadslagingen in de vergaderingen van de Raad toe te laten.
2. De Raad is bevoegd de desbetreffende minister of ministers schriftelijk te verzoeken een of meer medewerkers aan te wijzen om toelichting te geven in of buiten de vergadering.

E Artikel 14 komt te luiden:

Artikel 14

De minister verstrekt de Raad alle door deze, in verband met zijn adviezen, verlangde inlichtingen, tenzij naar zijn of hun oordeel deze inlichtingen gevallen als bedoeld in artikel 11 van de Landsverordening openbaarheid van bestuur³ betreffen.

F Artikel 15, vierde lid, komt te luiden:

4. Indien de Raad niet tot een eenstemmig advies kan geraken wordt een meerderheidsadvies uitgebracht ondertekend door de leden welke die meerderheid vormen, vergezeld van een minderheidsadvies, ondertekend door de desbetreffende leden.

G Artikel 16 komt te luiden:

Artikel 16

1. De Minister van Algemene Zaken draagt zorg voor het openbaar maken van door een of meer ministers gevraagde adviezen van de Raad.

[13]

³ A.B. 2010, 87, bijlage t.

2. Het tijdstip van openbaarmaking van de adviezen van de Raad, is wat betreft:
 - a. adviezen over door een of meer ministers om advies voorgelegde ontwerp-landsverordeningen: gelijktijdig met de aanbieding door de Gouverneur aan de Staten ter goedkeuring;
 - b. adviezen over landsbesluiten, houdende algemene maatregelen, en andere landsbesluiten: gelijktijdig met de bekendmaking.
3. Adviezen aan de regering over door de Staten aan de Gouverneur voorgedragen ontwerp-landsverordeningen, worden, door de zorg van de Minister van Algemene Zaken openbaar gemaakt, gelijktijdig met de kennisgeving van de beslissing van de Gouverneur, bedoeld in artikel 80 juncto artikel 75 van de Staatsregeling van Curac;ao⁴.
4. Adviezen aan de Staten over aan de Gouverneur voor te gedragen ontwerp-landsverordeningen, worden, door de zorg van de voorzitter van de Staten openbaar gemaakt, gelijktijdig met de indiening van het ontwerp voor beraadslaging en besluitvorming over de voordracht, bedoeld in artikel 77, tweede lid, van de Staatsregeling van Curac;ao.
5. Bij de openbaarmaking van de adviezen, bedoeld in het eerste, derde en vierde lid, worden tevens openbaar gemaakt de schriftelijke reactie en de aan de Raad voorgelegde tekst, voor zover in die tekst wijzigingen zijn aangebracht.
6. Openbaarmaking van adviezen die niet kan geschieden zoals voorzien in het tweede, derde of vierde lid, geschiedt uiterlijk binnen zes weken na het indienen van het advies. De openbaarmaking heeft plaats op de wijze, voorgeschreven in artikel 9, tweede en derde lid, van de Landsverordening openbaarheid van bestuur.
7. Indien de regering binnen zes weken na het ontvangen van het advies op een ontwerp als bedoeld in het derde lid, niet heeft beslist, kan de Raad het advies openbaar maken met inachtneming van artikel 9, tweede en derde lid, van de Landsverordening openbaarheid van bestuur.
8. Openbaarmaking blijft achterwege:
 - a. in de gevallen, bedoeld in artikel 11 van de Landsverordening openbaarheid van bestuur;
 - b. indien een advies als bedoeld in het eerste lid, onder a, zonder meer instemmend luidt, dan wel uitsluitend opmerkingen van redactionele aard bevat.
9. De Raad doet in zijn adviezen, bedoeld in het eerste lid, voorstellen omtrent de toepassing van het achtste lid.
10. De Raad is bevoegd eenmaal openbaar gemaakte adviezen op zijn website toegankelijk te maken.

H Artikel 18, tweede lid, komt te luiden:

De voorzitter en leden, bedoeld in het eerste lid, oefenen hun taken als bedoeld in artikel 2, uit gedurende de periode totdat een voorzitter en leden zijn benoemd overeenkomstig deze landsverordening, tenzij eerder ontslag wordt verleend.

[14]

⁴ A.B. 2010, 86.

2. Het tijdstip van openbaarmaking van de adviezen van de Raad, is wat betreft:
 - a. adviezen over door een of meer ministers om advies voorgelegde ontwerp-landsverordeningen: gelijktijdig met de aanbieding door de Gouverneur aan de Staten ter goedkeuring;
 - b. adviezen over landsbesluiten, houdende algemene maatregelen, en andere landsbesluiten: gelijktijdig met de bekendmaking.
3. Adviezen aan de regering over door de Staten aan de Gouverneur voorgedragen ontwerp-landsverordeningen, worden, door de zorg van de Minister van Algemene Zaken openbaar gemaakt, gelijktijdig met de kennisgeving van de beslissing van de Gouverneur, bedoeld in artikel 80 juncto artikel 75 van de Staatsregeling van Curaçao⁴.
4. Adviezen aan de Staten over aan de Gouverneur voor te gedragen ontwerp-landsverordeningen, worden, door de zorg van de voorzitter van de Staten openbaar gemaakt, gelijktijdig met de indiening van het ontwerp voor beraadslaging en besluitvorming over de voordracht, bedoeld in artikel 77, tweede lid, van de Staatsregeling van Curaçao.
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7. Indien de regering binnen zes weken na het ontvangen van het advies op een ontwerp als bedoeld in het derde lid, niet heeft beslist, kan de Raad het advies openbaar maken met inachtneming van artikel 9, tweede en derde lid, van de Landsverordening openbaarheid van bestuur.
8. Openbaarmaking blijft achterwege:
 - a. in de gevallen, bedoeld in artikel 11 van de Landsverordening openbaarheid van bestuur;
 - b. indien een advies als bedoeld in het eerste lid, onder a, zonder meer instemmend luidt, dan wel uitsluitend opmerkingen van redactionele aard bevat.
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H Artikel 18, tweede lid, komt te luiden:

De voorzitter en leden, bedoeld in het eerste lid, oefenen hun taken als bedoeld in artikel 2, uit gedurende de periode totdat een voorzitter en leden zijn benoemd overeenkomstig deze landsverordening, tenzij eerder ontslag wordt verleend.

[15]

⁴ A.B. 2010, 86.

Artikel II

Deze landsverordening treedt in werking met ingang van de dag na die van bekendmaking, met dien verstande dat artikel I, onderdeel H, terug werkt tot en met 10 oktober 2010.

Gegeven te Willemstad, 24 augustus 2017
L.A. GEORGE-WOUT

De Minister van Algemene Zaken,
E.P. RHUGGENAATH

Uitgegeven de 25^{ste} augustus 2017
De Minister van Algemene Zaken,
E.P. RHUGGENAATH

a

Bijlage behorende bij Eilandsverordering vaststelling diverse ontwerp-landsverordeningen land Cura o (A.B. 2010 no.87)

Landsverordering van de regelende de instelling, inrichting, samenstelling en bevoegdheid van een Sociaal Economische Raad (Landsverordering Sociaal Economische Raad)

IN NAAM DER KONINGIN

DE GOUVERNEUR van Cura o

In overweging genomen hebbende dat het wenselijk is een vast college van advies ten dienste van de regering in te stellen met betrekking tot onderwerpen van sociaal-economische aard;

Gelet op artikel III van de Rijkswet wijziging Statuut in verband met de opheffing van de Nederlandse Antillen

Artikel 1

Er is een Sociaal Economische Raad, hierna genoemd de Raad.

Artikel 2

1. De Raad heeft tot taak de regering van advies te dienen omtrent alle onderwerpen van sociaal-economische aard.
2. De Raad brengt zijn adviezen uit op daartoe strekkend **verzoek** van e1m of meer ministers.
3. De Raad kan eveneens uit eigen beweging de regering van advies dienen omtrent onderwerpen van sociaal-economische aard.

Artikel 3

1. De Raad bestaat uit ten hoogste acht leden, die bij landsbesluit worden benoemd.
2. Er worden vier leden benoemd die kunnen warden beschouwd als vertegenwoordigers van het bedrijfsleven. Van deze vier leden zullen twee afkomstig zijn uit werkgeverskring en twee uit werknemerskring.
3. De twee uit werkgeverskring afkomstige personen worden benoemd op schriftelijke voordracht van representatieve organisaties van werkgevers. De twee uit werknemerskring afkomstige personen worden benoemd op schriftelijke voordracht van representatieve organisaties van werknemers.
4. Er warden twee personen benoemd op schriftelijke voordracht van de overkoepelende organisatie van NGO's op Cura o.
5. Ten hoogste twee personen worden benoemd die niet beschouwd kunnen worden als vertegenwoordigers van het bedrijfsleven noch van de NGO's. Deze personen mogen ook niet

actief dienend ambtenaar zijn bij de ministeries van Financien, Economische Ontwikkeling, Justitie, Gezondheid, Milieu en Natuur en Sociale Ontwikkeling en Welzijn.

Artikel4

Voor elk lid wordt tevens een plaatsvervanger benoemd. Het bepaalde in artikel 3 is te dien opzichte van overeenkomstige toepassing.

Artikel5

Lid of plaatsvervangend lid van de Raad kunnen alleen zijn ingezetenen van Cura o.

Artikel6

1. Het lidmaatschap en het plaatsvervangend lidmaatschap van de Raad zijn onverenigbaar met het lidmaatschap van de Staten, de functie van minister of het lidmaatschap van de Raad van Advies.
2. Bij aanvaarding van de in het voorgaande lid genoemde functie, van het lidmaatschap van de Staten of van de Raad van Advies, vervalt het lidmaatschap of plaatsvervangend lidmaatschap van de Raad van rechtswege.

Artikel7

1. De leden van de Raad en hun plaatsvervangers treden om de twee jaren af met dien verstande dat elk jaar de helft volgens een van tevoren opgesteld rooster aftreedt. De afgetreden leden en hun plaatsvervangers kunnen terstond worden herbenoemd.
2. De leden van de Raad en hun plaatsvervangers kunnen te alien tijde op hun daartoe strekkend schriftelijk verzoek ontslag bekomen.
3. Degene die tot lid of plaatsvervangend lid is benoemd ter vervulling van een tussentijds opgevacanteerde plaats, treedt af op het tijdstip, waarop degene, wiens plaats was opgevacanteerd, had moeten aftreden.
4. Aan een lid, van wie degene die dat lid heeft voorgedragen schriftelijk aan de regering heeft kenbaar gemaakt, dat de betrokkene niet langer als diens vertegenwoordiger kan worden beschouwd, wordt als zodanig ontslag verleend.
5. Bij de aanvang van de eerste zittingsperiode zal het rooster van aftreding bedoeld in het eerste lid, door de Raad worden vastgesteld.
6. Bij periodieke aftreding blijft een afgetreden lid van de Raad zitting houden totdat in de door zijn aftreding opgevacanteerde plaats is voorzien.

Artikel8

1. De voorzitter en diens plaatsvervanger worden uit de leden van de Raad, op voorstel van de Raad, bij landsbesluit benoemd. Ontslag van de voorzitter en diens plaatsvervanger geschiedt bij landsbesluit.
2. De secretaris en zijn plaatsvervanger worden, op voordracht van de Raad, bij landsbesluit benoemd, geschorst en ontslagen. De secretaris staat aan het hoofd van het secretariaat.
3. De Raad gehoord kan bij landsbesluit worden voorzien in het overige personeel van het secretariaat.

Artikel9

1. De voorzitter roept de Raad bijeen, wanneer hem dat nodig of gewenst voorkomt onder mededeling van de aangelegenheden welke behandeld zullen worden.
2. Wanneer tenminste twee leden van de Raad het gemotiveerd verlangen daartoe aan de voorzitter hebben kenbaar gemaakt, roept de voorzitter de Raad binnen 14 dagen na de datum

actief dienend ambtenaar zijn bij de ministeries van Financien. Economische Ontwikkeling. Justitie, Gezondheid. Milieu en Natuur en Sociale Ontwikkeling en Welzijn.

Artikel4

Voor elk lid wordt tevens een plaatsvervanger benoemd. Het bepaalde in artikel 3 is te dien opzichte van overeenkomstige toepassing.

Artikel5

Lid of plaatsvervangend lid van de Raad kunnen alleen zijn ingezetenen van Cura o.

Artikel6

1. Het lidmaatschap en het plaatsvervangend lidmaatschap van de Raad zijn onverenigbaar met het lidmaatschap van de Staten. de functie van minister of het lidmaatschap van de Raad van Advies.
2. Bij aanvaarding van de in het voorgaande lid genoemde functie, van het lidmaatschap van de Staten of van de Raad van Advies, vervalt het lidmaatschap of plaatsvervangend lidmaatschap van de Raad van rechtswege.

Artikel7

1. De leden van de Raad en hun plaatsvervangers treden om de twee jaren af met dien verstande dat elk jaar de helft volgens een van tevoren opgesteld rooster aftreedt. De afgetreden leden en hun plaatsvervangers kunnen terstond worden herbenoemd.
2. De leden van de Raad en hun plaatsvervangers kunnen te alien tijde op hun daartoe strekkend schriftelijk verzoek ontslag bekomen.
3. Degene die tot lid of plaatsvervangend lid is benoemd ter vervulling van een tussentijds opgevallen plaats, treedt af op het tijdstip, waarop degene, wiens plaats was opgevallen, had moeten aftreden.
4. Aan een lid, van wie degene die dat lid heeft voorgedragen schriftelijk aan de regering heeft kenbaar gemaakt, dat de betrokkene niet langer als diens vertegenwoordiger kan worden beschouwd, wordt als zodanig ontslag verleend.
5. Bij de aanvang van de eerste zittingsperiode zal het rooster van aftreding bedoeld in het eerste lid, door de Raad worden vastgesteld.
6. Bij periodieke aftreding blijft een afgetreden lid van de Raad zitting houden totdat in de door zijn aftreding opgevallen plaats is voorzien.

Artikel8

1. De voorzitter en diens plaatsvervanger worden uit de leden van de Raad, op voorstel van de Raad, bij landsbesluit benoemd. Ontslag van de voorzitter en diens plaatsvervanger geschiedt bij landsbesluit.
2. De secretaris en zijn plaatsvervanger worden. op voordracht van de Raad, bij landsbesluit benoemd. geschorst en ontslagen. De secretaris staat aan het hoofd van het secretariaat.
3. De Raad gehoord kan bij landsbesluit worden voorzien in het overige personeel van het secretariaat.

Artikel9

1. De voorzitter roept de Raad bijeen, wanneer hem dat nodig of gewenst voorkomt onder mededeling van de aangelegenheden welke behandeld zullen worden.
2. Wanneer tenminste twee leden van de Raad het gemotiveerd verlangen daartoe aan de voorzitter hebben kenbaar gemaakt, roept de voorzitter de Raad binnen 14 dagen na de datum

van het verzoek bijeen onder mededeling van het gemotiveerde verlangen van de desbetreffende leden.

Artikel 10

1. Een vergadering van de Raad vindt geen doorgang indien niet tenminste de helft van het aantal leden waaruit de Raad is samengesteld, aanwezig is.
2. Nadat de Raad tweemaal tot een vergadering is bijeengeroepen, zonder dat aan het vereiste in het voorgaande lid blijkt te zijn voldaan, vindt de vergadering van de daarna bijeengeroepen Raad doorgang ongeacht het aantal opgekomen leden.

Artikel 11

De leden, en in voorkomende gevallen de plaatsvervangende leden, nemen aan de beraadslagingen en de stemmingen van de Raad deel zonder last of ruggespraak.

Artikel 12

1. De Raad is bevoegd anderen tot de beraadslagingen in de vergaderingen van de Raad toe te laten, die alsdan een adviserende stem hebben.
2. Iedere minister kan de Raad verzoeken een of meer door hem aangewezen ambtenaren als waarnemer toe te laten tot de vergaderingen van de Raad, indien daarin aangelegenheden zijn ministerie betreffende worden behandeld. Indien de Raad het verzoek inwilligt hebben deze ambtenaren in de desbetreffende vergadering van de Raad een adviserende stem.

Artikel 13

Een ieder die betrokken is bij de uitvoering van deze landsverordening en daarbij de beschikking krijgt over gegevens, waarvan hij het vertrouwelijke karakter kent of redelijkerwijs moet vermoeden, en voor wie niet reeds uit hoofde van ambt, beroep of wettelijk voorschrift ter zake van de gegevens een geheimhoudingsplicht geldt, is verplicht tot geheimhouding daarvan, behoudens voor zover enig wettelijk voorschrift hem tot bekendmaking verplicht, of uit zijn taak bij de uitvoering van deze landsverordening noodzaak tot bekendmaking voortvloeit.

Artikel 14

De regering verstrekt de Raad alle door deze, in verband met zijn adviezen, verlangde inlichtingen, tenzij naar het oordeel van de regering het landsbelang zich daartegen verzet.

Artikel 15

1. De adviezen van de Raad worden ondertekend door de voorzitter en de secretaris.
2. De adviezen van de Raad worden opgesteld in overeenstemming met het gevoelen van de meerderheid van de vergadering.
3. In de adviezen wordt van afwijkende gevoelens van de minderheid desverlangd melding gemaakt.
4. De leden kunnen minderheidsnota's bij het advies voegen indien het daarin uitgesproken gevoelen is verdedigd in de vergadering waarin het uit te brengen advies **wordt** behandeld.

Artikel 16

De adviezen van de Raad worden door de minister van Algemene Zaken terstond aan de Staten in afschrift toegezonden.

Artikel 17

De geldelijke voorzieningen van de leden van de Raad en van de secretaris warden vastgesteld bij landsbesluit, houdende algemene maatregelen.

Artikel 18

1. In afwijking van de in artikel 3, tweede, derde en vijfde lid, artikel 4 en 8 vastgelegde benoemingsprocedure voor de voorzitter en de leden van de Raad, treden als eerste leden van de Sociaal Economische Raad op de zittende leden van de Sociaal Economische Raad van de Nederlandse Antillen, voorzover zij door Cura o zijn voorgedragen en namens Cura o zitting hebben in deze Raad.
2. De in het eerste lid bedoelde voorzitter en leden oefenen hun taken, zoals bedoeld in artikel 2 uit, voor een periode van maximaal zes maanden na inwerkingtreding van deze landsverordening, met dien verstande dat zij binnen deze periode tevens zorgdragen voor een adequate samenstelling van de Raad met in achtname van de in artikel 3 voorgeschreven benoemingscriteria.

Artikel 19

1. Deze landsverordening treedt in werking op het tijdstip waarop de Rijkswet wijziging Statuut in verband met de opheffing van de Nederlandse Antillen in werking treedt.
2. Zij kan worden aangehaald als "Landsverordening Sociaal Economische Raad".

De gefdelijke voorzieningen van de leden van de Raad en van de secretaris warden vastgestefd bij landsbesluit, houdende algemene maatregelen.

Artikel 18

1. In afwijking van de in artikel 3, tweede, derde en vijfde lid, artikel 4 en 8 vastgelegde benoemingsprocedure voor de voorzitter en de leden van de Raad, treden als eerste leden van de Sociaal Economische Raad op de zittende leden van de Sociaal Economische Raad van de Nederlandse Antillen, voorzover zij door Cura o zijn voorgedragen en namens Cura o zitting hebben in deze Raad.
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(

Landsverordening van de regelende
de installing, inrichting, samenstelling
en bevoegdheid van een Sociaal Econ
nomische Raad (Landsverordening
Sociaal Economische Raad)

Memorie van toelichting

No.3

Algemeen

Artikel 72 van de Staatsregeling maakt de instelling van colleges van advies inzake wetgeving en bestuur mogelijk. De onderhavige ontwerp-landsverordening voorziet in de instelling van een voor de sociaal-economische ontwikkeling van Cura o zeer belangrijk adviescollege: de Sociaal Economische Raad (hierna SER).

Hoewel de SER van oudsher tripartiet is samengesteld, met vertegenwoordigers van werknemers, werkgevers en onafhankelijke deskundigen, is mede met het oog op maatschappelijke acceptatie en draagvlakvergroting voor het te voeren sociaal-economische regeringsbeleid overwogen ook de non-gouvernementele organisaties (NGO's) zitting te laten nemen in de SER van Cura o. Wat bij die afweging tevens heeft meegespeeld zijn de laatste trends en ontwikkelingen waarbij NGO's wereldwijd steeds vaker als autonome eenheden, met een eigen identiteit, naar buiten treden.

De wettelijke taak van de SER is de regering te adviseren over alle onderwerpen van sociaal-economische aard (zie artikel 2 van de landsverordening). Gezien de representatieve samenstelling, neemt de regering - via het advies van de SER- kennis van het maatschappelijke draagvlak van beleidsvoorstellen met sociaal-economische consequenties. Hiennee is de SER een belangrijk onderdeel van het besluitvormingsproces van de regering.

Behalve het adviseren van de regering kan de SER ook op eigen initiatief adviezen uitbrengen over sociaal-economische onderwerpen. Naast deze adviesfunctie vervult de SER ook de rol van overlegorgaan voor de drie sociale partners die in de SER vertegenwoordigd zijn, de zogenoemde forumfunctie. Aldus wordt binnen de SER het overleg bevorderd tussen werkgevers, werknemers en met rechtspersoonlijkheid bezittende groepen die op non-profit basis activiteiten ontplooiën gericht op het bevorderen van het sociaal, maatschappelijk, cultureel, educatief en spiritueel welzijn van burgers. Deze functie is niet expliciet opgenomen in de taakomschrijving van de SER maar vloeit echter daaruit voort. Ook in de Nederlands-Antilliaanse situatie was dit het geval, wat betreft het overleg tussen werkgevers en werknemers.

De openbaarmaking van de adviezen van de SER is geregeld in de Landsverordening Openbaarheid van Bestuur. Ingevolge artikel 10 van deze landsverordening, geschiedt de openbaarmaking van de SER-adviezen door de Minister van Algemene Zaken.

Het Landsbesluit houdende algemene maatregelen regelende de installing van de Sociaal Economische Raad (P.B. 1970, no. 136) van de Nederlandse Antillen heeft in zekere zin als voorbeeld gediend voor de onderhavige ontwerp-landsverordening.

Artikelsgewijze toelichting

Artikelen 1 en 2

Anders dan de Hoge Colleges van Staat t.w. de Raad van Advies, de Algemene Rekenkamer en de Ombudsman, wordt de SER niet in de Staatsregeling van Cura o genoemd. De SER is een van de vaste adviescolleges over wetgeving en bestuur, die op grond van artikel 72, eerste lid bij landsverordening warden ingesteld.

Artikel 3

Voorgesteld wordt de samenstelling van de SER te bepalen op ten hoogste acht leden, waarvan vier het bedrijfsleven vertegenwoordigen, twee de NGO's en twee tot de categorie onafhankelijke deskundigen behoren. De leden worden bij landsbesluit benoemd. Uit de leden van de SER wordt een voorzitter en een plaatsvervangende voorzitter gekozen. (artikel 8).

Artikel 5

Deze bepaling stelt als voorwaarde voor het lidmaatschap dat men ingezetene van Curaçao moet zijn. Voor de vereiste dat men de Nederlandse nationaliteit bezit, bestaat geen noodzaak.

Artikel 6

Deze bepaling bevat een aantal met het lidmaatschap van de SER onverenigbare functies. De lijst is beperkter dan de lijst met onverenigbaarheden voor de leden van de Raad van Advies als Hoog College van Staat, waarvan een aantal uitdrukkelijk in de Staatsregeling is genoemd.

Artikel 7

De termijn van het lidmaatschap van de SER is gesteld op drie jaar. Ter wille van de continuïteit kunnen de leden na verloop van de termijn direct worden herbenoemd, ook na eerdere herbenoemingen.

Artikel 8

Dit artikel bevat procedureregels voor de benoeming en het ontslag van de leden van de SER alsmede van de secretaris. De SER heeft een Secretariaat dat de SER ondersteuning biedt bij zijn advies- en overlegtaak.

Artikel 11

In dit artikel is bepaald dat de leden van de SER aan de beraadslaging en stemming deelnemen zonder last. Deze bepaling beoogt een zekere mate van onafhankelijkheid te garanderen ten opzichte van de organisatie die het lid heeft voorgedragen. Ondanks het feit dat de leden door werkgeversorganisaties, werknemersorganisaties en de overkoepelende organisatie van NGO's worden voorgedragen, worden zij op persoonlijke titel benoemd.

Artikel 18

Deze bepaling voorziet in de vaststelling van de geldelijke voorzieningen bij landsbesluit houdende algemene maatregelen. De leden van de SER vervullen hun lidmaatschap deeltijds. Regeling van een vergoeding op het niveau van een landsverordening wordt niet wenselijk geacht aangezien in deze de nodige flexibiliteit geboden is.

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ANNEXV

ANSWER to Non Conformity Conclusion article 6 par. 2 and par. 3
European Social Charter

Ordinance on Work Disputes, 1946, Bureau Labour Mediation of Cura ao

WORK DISPUTES COUNTRY REGULATION 1946

Lv. of July 23, 1946, containing provisions for the promotion of labor peace; text in OJ 1946, 119, ind. from July 31, 1946; amended by:

1. Lv. of December 20, 1946 amending and supplementing the Arbeids disputeslv. 1946 (OJ 1946, 188; with improvement sheet), from December 25, 1946;
2. Lv. of March 25, 1952 amending the Employment Disputes. 1946 and amending the Wv Sr. for Cura ao (PB 1952, 30; with improvement sheet), ind. from April 8, 1952;
3. Lv. of 29 June 1956 amending the Penal Code. for Curacao (PB 1956, 66), ind. including 12 July 1956;
4. Lv. of June 15, 1971 amending the Employment Disputes. 1946 (OJ 1971, 83), ind. from July 27, 1971;
5. Lv. of 9 February 1977 amending the Employment Disputes. 1946 (OJ 1977, 44), int. from November 23, 1978 and retroactively to August 23, 1978 (OJ 1978, 345).
6. Lv. of 11 September 1997 (OJ 1997, 237), ind. from 1 October 1997.

Chapter 1

Introductory provisions

Article 1.

(completely amended by no. 2; paragraph 2 partially amended by no. 4)

1. In each of the island territories "Curaao" and Aruba there is a country mediator in accordance with the certain by or pursuant to this national ordinance, to promote labor peace.
2. The country mediator in the island territory of Curaao is also the country mediator for the island area Bonaire and the island area the Windward Islands.
3. The Governor appoints, suspends and dismisses the country's mediator and determines his instructions.

Article 2.

(a and b amended and c added with no. 2).

This national ordinance means by:

- a. dispute : any dispute between employees and one or more employers in labor affairs today;
- b. legal dispute: any dispute that, pursuant to Article I of the Rules of Procedure, on the organization and composition of the Judiciary Curacao, is excluded by law to the Judiciary;
- c. workers' council: a representation, chosen by free and secret ballot from and by employees of the same company belonging to one or more categories of employees, for the purposes of their work affairs, all of which are specified in a regulation approved by the National Government, of which a copy, certified jointly by or on behalf of the management of the company concerned and by the relevant representation of employees in that company, has been filed with the National Government.

Chapter II

From disputes

1. *From the intervention of the country mediator*
(inscription partially amended by no. 2).

Article 3.

(paragraph 1 entirely amended by no. 2 and partly amended by no. 2; paragraph 2 partially amended by no. 2; paragraphs 3 and 4 added by no. 1 and completely amended by no. 2).

1. If a dispute has arisen in the island territory of Aruba, Bonaire, Curaao or the Windward Islands that threatens to give rise to a strike or exclusion and in which twenty-five employees or more are involved, employers and/ or parties involved in the dispute must immediately withdraw employees or managers of their trade associations [1] are to involve the intervention of the land

mediator designated for the relevant island territory, which invocation is immediately confirmed in writing.

2. In the case of a dispute that may give rise to a strike or exclusion and in which fewer than 25 employees are involved, the parties are entitled to invoke the intervention of the country's mediator in writing .

3. If a dispute as referred to in the first or second paragraph of this article has arisen in a company in which there is an employee council for the category of employees involved in that dispute, a derogation to the extent provided for in the first and second paragraph of this article, negotiated by the board or, in the absence thereof, by the representative (s) within the area of the Netherlands Antilles of that company and that employee council, and attempted to resolve the dispute amicably as quickly as possible. Each of the parties involved informs the country mediator of the start of these negotiations, which notification is immediately confirmed in writing.
4. If the country mediator has become aware of an impending strike or exclusion or of the start of the negotiations as referred to in the previous paragraph pursuant to the provisions of the first, second or third paragraph of this article or otherwise, he shall communicate this forthwith inform the National Government.

Article 3A.

(inserted at no. 2 and amended at no. 3).

If a dispute has arisen in a company that gives rise or has given rise to a strike or exclusion in that company, or which in the opinion of the National Government can give rise, it is during a period of no more than thirty days to be determined by national decree employee as the employer prohibited in such an undertaking from refusing to refrain from performing work or work, to which the employees have explicitly committed themselves or to which they are obliged by virtue of an agreement, to wholly or partly cease, to refuse, whether or not to terminate such work or work conditionally or with due observance of a period, without prejudice to the authority to terminate an employment contract for urgent reason as referred to in articles 1615q of the Civil Code of the Netherlands Antilles.

Article 3B

(inserted by no. 2; paragraph 2 amended by no. 3).

1. If a company referred to in a national decree holding general measures [J] implementing a dispute has arisen or threatens to arise, the companies referred to in the general measures holding that national decree are prohibited as a result of that dispute. perform work or work to which the employees have explicitly committed themselves or to which they are obliged by virtue of an agreement, to discontinue wholly or in part, to refuse, to refrain from, whether or not such work or work is conditional or not of a period, until the mediation of the country mediator to settle or prevent the dispute will have ended.
2. If a dispute has arisen in a company as referred to in the previous paragraph which gives rise to a strike or exclusion in that company or which may give rise to a decision by the National Government, or if a strike or exclusion has already occurred in such a company, - without prejudice to the provisions of the first paragraph - during a period to be determined by national decree of no more than ninety days, it is prohibited to perform work or activities to which the employees have explicitly committed themselves or for which they are in force as a result of the dispute. of an agreement are obliged to discontinue, in whole or in part, refuse to leave behind, whether or not to terminate such work or work conditionally or with due observance of a period.

Article 4.

(paragraph 1 wholly and paragraph 3 partially amended, and paragraphs 4 and 5 added by no. 2).

1. If, pursuant to the provisions of the first, second or third paragraph of Article 3 or otherwise, the country mediator has become aware of a dispute that is likely to give rise to a strike or exclusion, he shall immediately contact parties and endeavors to reach a solution as soon as possible with all the means at their disposal. If it concerns a case as referred to in Article 3, third paragraph, then the task of the country mediator is primarily to hold consultations in order to obtain an amicable solution between the administration or, in the absence thereof, the representative (s). within the territory of the Netherlands Antilles of that company and the relevant employee council.
2. He can make employers or employees or directors of their trade unions involved in the dispute appear to him to provide information about the dispute.
3. The person called is obliged to appear and to provide all requested information.
4. The parties are obliged to provide the country mediator with all the assistance and cooperation demanded of them, to which they are reasonably capable of.
5. The provisions of the preceding paragraph of this article do not apply if or as long as the country mediator is required to abstain from intervention pursuant to Article 5, but the parties involved are obliged to inform him about the progress of the negotiations if required.

Article 4A.

(inserted at no. 2). The country mediator can officially offer his mediation, with due observance of the provisions of article 5.

Article 5.

(paragraph 1 opening sentence and c added and paragraph 2 amended by no. 2).

1. The country mediator shall refrain from intervening or from further intervening in a dispute:
 - a. if it appears to him that the parties have their own mediators, unless it can be deduced from the circumstances that these mediators will not be known in the dispute or that the actions of these mediators did not lead to the settlement of the dispute;
 - b. if it appears to him that the dispute is a legal dispute; [29]
 - c. as long as negotiations, as referred to in Article 3, third paragraph, are ongoing and, in his opinion, it can reasonably be inferred from the circumstances that those negotiations can lead to the settlement of the dispute.
2. If the circumstances referred to in the first paragraph under a and b relate only to a part of the employers or employees involved in the dispute, then the national mediator decides, depending on the circumstances, whether and to what extent he will intervene in the dispute.

Article 6.

3. If a dispute as referred to in the first or second paragraph of this article has arisen in a company in which there is an employee council for the category of employees involved in that dispute, a derogation to the extent provided for in the first and second paragraph of this article, negotiated by the board or, in the absence thereof, by the representative (s) within the area of the Netherlands Antilles of that company and that employee council, and attempted to resolve the dispute amicably as quickly as possible. Each of the parties involved informs the country mediator of the start of these negotiations, which notification is immediately confirmed in writing.

4. If the country mediator has become aware of an impending strike or exclusion or of the start of the negotiations as referred to in the previous paragraph pursuant to the provisions of the first, second or third paragraph of this article or otherwise, he shall communicate this forthwith inform the National Government.

Article 3A.

(inserted at no. 2 and amended at no. 3).

If a dispute has arisen in a company that gives rise or has given rise to a strike or exclusion in that company, or which in the opinion of the National Government can give rise, it is during a period of no more than thirty days to be determined by national decree employee as the employer prohibited in such an undertaking from refusing to refrain from performing work or work, to which the employees have explicitly committed themselves or to which they are obliged by virtue of an agreement, to wholly or partly cease, to refuse, whether or not to terminate such work or work conditionally or with due observance of a period, without prejudice to the authority to terminate an employment contract for urgent reason as referred to in articles 161Sq of the Civil Code of the Netherlands Antilles.

Article 3B

(inserted by no. 2; paragraph 2 amended by no. 3).

[31] iw.plementing

1. If a company referred to in a national decree holding general measures- a dispute has arisen or threatens to arise, the companies referred to in the general measures holding that national decree are prohibited as a result of that dispute. perform work or work to which the employees have explicitly committed themselves or to which they are obliged by virtue of an agreement, to discontinue wholly or in part, to refuse, to refrain from, whether or not such work or work is conditional or not of a period, until the mediation of the country mediator to settle or prevent the dispute will have ended.

2. If a dispute has arisen in a company as referred to in the previous paragraph which gives rise to a strike or exclusion in that company or which may give rise to a decision by the National Government, or if a strike or exclusion has already occurred in such a company, - without prejudice to the provisions of the first paragraph - during a period to be determined by national decree of no more than ninety days, it is prohibited to perform work or activities to which the employees have explicitly committed themselves or for which they are in force as a result of the dispute. of an agreement are obliged to discontinue, in whole or in part, refuse to leave behind, whether or not to terminate such work or work conditionally or with due observance of a period.

Article 4.

(paragraph 1 wholly and paragraph 3 partially amended, and paragraphs 4 and 5 added by no. 2).

1. If, pursuant to the provisions of the first, second or third paragraph of Article 3 or otherwise, the country mediator has become aware of a dispute that is likely to give rise to a strike or exclusion, he shall immediately contact parties and endeavors to reach a solution as soon as possible with all the means at their disposal. If it concerns a case as referred to in Article 3, third paragraph, then the task of the country mediator is primarily to hold consultations in order to obtain an amicable solution between the administration or, in the absence thereof, the representative (s). within the territory of the Netherlands Antilles of that company and the relevant employee council.

2. He can make employers or employees or directors of their trade unions involved in the dispute appear to him to provide information about the dispute.

3. The person called is obliged to appear and to provide all requested information.

4. The parties are obliged to provide the country mediator with all the assistance and cooperation demanded of them, to which they are reasonably capable of.

5. The provisions of the preceding paragraph of this article do not apply if or as long as the country mediator is required to abstain from intervention pursuant to Article 5, but the parties involved are obliged to inform him about the progress of the negotiations if required.

Article 4A.

(inserted at no. 2). The country mediator can officially offer his mediation, with due observance of the provisions of article 5.

Article 5.

(paragraph 1 opening sentence and c added and paragraph 2 amended by no. 2).

1. The country mediator shall refrain from intervening or from further intervening in a dispute:

a. if it appears to him that the parties have their own mediators, unless it can be deduced from the circumstances that these mediators will not be known in the dispute or that the actions of these mediators did not lead to the settlement of the dispute;

b. if it appears to him that the dispute is a legal dispute;

c. as long as negotiations, as referred to in Article 3, third paragraph, are ongoing and, in his opinion, it can reasonably be inferred from the circumstances that those negotiations can lead to the settlement of the dispute.

2. If the circumstances referred to in the first paragraph under a and b relate only to a part of the employers or employees involved in the dispute, then the national mediator decides, depending on the circumstances, whether and to what extent he will intervene in the dispute.

Article 6.

(amended by no. 2).

If in the case referred to in Article 3, paragraph 2, the country mediator considers no terms available for his intervention, he will inform the applicants accordingly. He can help them with that provide such advice as it appears appropriate to promote amicable termination of the dispute.

Article 7.

(both paragraphs amended by no. 2).

1. If the dispute involves more than one company or has arisen in different companies, the Governor may, at the request of the national mediator, appoint an extraordinary national mediator for each company or dispute.
2. Everything that is determined by or pursuant to this national ordinance with regard to the country mediator, also applies to the extraordinary country mediators appointed pursuant to the first paragraph of this article.

Article 7A.

(inserted at no. 2).

1. If the dispute arose in one or more companies as referred to in Article 3B, first paragraph, and the intervention of the country mediator, as well as the extraordinary country mediator referred to in Article 7, did not lead to an amicable settlement of the dispute the National Government can appoint one or more other extraordinary country mediators - whether or not in succession to each other - in that dispute.
2. Everything determined by or pursuant to this national ordinance with regard to the land mediator, as well as the provisions of articles 9, third paragraph, 10 and 11, shall apply mutatis mutandis with regard to extraordinary land mediator referred to in the previous paragraph⁴ (s), subject to the provisions of the second sentence of Article 4, first paragraph, if it concerns a case as referred to in Article 3, third paragraph.

2. From the intervention of a special mediator

Article 8

(all members at no. 2 partially amended).

1. The Governor may, in order to settle a dispute that is not withdrawn from the mediator's intervention pursuant to Article 5, appoint a special mediator, assisted or not by a committee, if the request is made in writing by or on behalf of the employers and employees involved in the dispute or by or on behalf of such part of them that in the opinion of the Governor the intervention of a special mediator may lead to the settlement of the dispute, or at least to a considerable limitation of the number of persons involved.
2. For the purposes of the provisions of this paragraph, only employers, employee, or trade unions of employers and employees, by or on behalf of whom a request has been made, as referred to in the first paragraph, are deemed to belong to a party. to include the employers and employees involved in the dispute and those by the special intermediary.
3. The country mediator may act as a special mediator at the request of the parties.
4. Unless the third paragraph of this article applies, the country mediator shall refrain from intervening or from further intervening in a dispute if a special mediator has been designated by the Governor.

Article 9.

(paragraph 1 amended by no.2).

1. The special intermediary may have employers and employees belonging to a party, - directors of trade unions or members whose members belong to one party, as well as witnesses and experts before him and possibly before the committee.
2. The person called is obliged to appear and to provide all information requested.
3. The special mediator may, with the approval of the Governor, instruct experts to conduct an investigation.

Article 10.

1. If a mediation is established, a deed is drawn up of it, which may be signed by the special mediator, possibly by the Commissioners and by or on behalf of both parties.
2. If the mediation is unsuccessful, the special mediator may also act on behalf of the committee, unless the parties still undertake to submit the dispute to the decision of an arbitral tribunal as referred to in § 3 of this chapter, to express their opinion on all disputes and the disputes. means for settling the dispute. The parties will be notified of this judgment in writing.
3. In making this communication, the special intermediary shall request each of the parties to inform him, within a time limit

set by them [], whether it accepts the proposed means of liquidation.

4. Declare that both parties accept the proposed means, a deed shall be drawn up, signed by the special mediator, possibly by the Commissioners and by or on behalf of both parties.
5. In the absence of a declaration by either or both parties that they accept the proposed means of liquidation, the special intermediary may make his opinion on the points of dispute and the means of liquidation proposed by him in whole or in part public.

Article 11.

All disputes that may arise with regard to the handling of the dispute by the special mediator, possibly assisted by a committee, will be settled by him.

3.0

§ 3. *From the arbitral tribunal*

Article 12.

(all members partially amended by no. 2).

1. Parties may, with the cooperation of the national mediator, undertake to submit a dispute to the decision of an arbitral tribunal.
2. The undertaking referred to in paragraph 1 is entered into in writing with the country mediator.
3. The country mediator determines what must be included in the written commitment. He is authorized to give all the directions

he deems desirable to the parties, regarding the obligation, the tribunal [Q] and the strict observance of his decision.

4. No dispute may be subject to the decisions of an arbitral tribunal if the parties to the written agreement referred to in paragraph 2 do not commit to the satisfaction of the national mediator, to comply with the decision of the tribunal.

Article 13.

(amended by no. 2).

The trial court can, with the consent of the country's mediator, turn to parties and make witnesses and experts appear before them. The person called is obliged to appear and to provide all information requested.

CHAPTER III

From the prevention of disputes

Article 14.

(amended by no. 2).

At the request of employers and employees, the country mediator can assist them in making agreements that can promote labor peace.

Article 14A.

(inserted at no. 5).

1. The country mediator may, at the request of the employer or the board of a workers' union, hold a referendum among one or more categories of employees to be determined by him in a company in order to determine which union is designated by the majority of those employees to represent them in their work affairs. Participants in the referendum can only be employees' associations with legal personality, whose statutes specifically mention the power to conclude collective agreements and which have submitted to the satisfaction of the country mediator documents proving that the majority of the relevant category or categories of employees are members of that association is.
2. The employer is obliged to release the relevant category or categories of employees on the day on which the referendum is held, while retaining wages, during the time determined by the country's mediator, in so far as this falls within their working hours, in order to cast their vote.
3. The country mediator shall inform the employer and the relevant employee associations of the result of the referendum in writing as soon as possible.
4. The employer is obliged to negotiate a collective labor agreement with the management of the workers' union, which was designated by the majority of employees at the referendum to represent them in their employment affairs.

Article 14B.

(inserted at no. 5).

1. The country mediator shall, at the request of an employer or the board of a trade union of employees, provide mediation in the negotiations regarding the conclusion of a collective agreement.
2. The country mediator may make the employer and the board of workers' trade unions appear before them in an attempt to assist parties with all the means at their disposal in the negotiations concerning the conclusion of the collective agreement.
3. The parties are obliged to appear and to provide the country mediator with all the assistance and cooperation demanded of them, to which they are reasonably able.

CHAPTER IV

General provisions

Article 15.

(amended by no. 2)

The country mediators, the foreign country mediators and the staff added to them receive compensation to be determined by the Governor for work performed by them. The special mediators, referred to in article 8, and the members of their commission [I] who have been added to them, the Governor may award compensation [35]

Article 16.

(paragraph 2 added by no. 1; art. completely amended by no. 2; paragraph I partially amended by no. 5).

1. He who does not fulfill one of the obligations described in the second sentence of article 3, third paragraph, article 4, third, fourth and fifth paragraph, article 9, second paragraph, article 13, article 14a, second and fourth paragraph, and article

B, third paragraph, is punished with imprisonment of at most one month or a fine of at most one hundred guilders.

§ 3. *From the arbitral tribunal*

Article 12.

(all members partially amended by no. 2).

1. Parties may, with the cooperation of the national mediator, undertake to submit a dispute to the decision of an arbitral tribunal.
2. The undertaking referred to in paragraph I is entered into in writing with the country mediator.
3. The country mediator determines what must be included in the written commitment. He is authorized to give all the directions

he deems desirable to the parties, regarding the obligation, the tribunal [§] and the strict observance of his decision.

4. No dispute may be subject to the decisions of an arbitral tribunal if the parties to the written agreement referred to in paragraph 2 do not commit to the satisfaction of the national mediator, to comply with the decision of the tribunal.

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The trial court can, with the consent of the country's mediator, turn to parties and make witnesses and experts appear before them. The person called is obliged to appear and to provide all information requested.

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2. The employer is obliged to release the relevant category or categories of employees on the day on which the referendum is held, while retaining wages, during the time determined by the country's mediator, in so far as this falls within their working hours, in order to cast their vote.
3. The country mediator shall inform the employer and the relevant employee associations of the result of the referendum in writing as soon as possible.
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(inserted at no. 5).

1. The country mediator shall, at the request of an employer or the board of a trade union of employees, provide mediation in the negotiations regarding the conclusion of a collective agreement.
2. The country mediator may make the employer and the board of workers' trade unions appear before them in an attempt to assist parties with all the means at their disposal in the negotiations concerning the conclusion of the collective agreement.
3. The parties are obliged to appear and to provide the country mediator with all the assistance and cooperation demanded of them, to which they are reasonably able.

CHAPTER IV

General provisions

Article 15.

(amended by no. 2)

The country mediators, the foreign country mediators and the staff added to them receive compensation to be determined by the Governor for work performed by them. The special mediators, referred to in article 8, and the members of their commission [Z] who have been added to them, the Governor may award compensation.

[37]

Article 16.

(paragraph 2 added by no. 1; art. completely amended by no. 2; paragraph I partially amended by no. 5).

1. He who does not fulfill one of the obligations described in the second sentence of article 3, third paragraph, article 4, third, fourth and fifth paragraph, article 9, second paragraph, article 13, article 14a, second and fourth paragraph, and article B, third paragraph, is punished with imprisonment of at most one month or a fine of at most one hundred guilders.

2. He who acts contrary to the provisions of Article 3, first paragraph, Article 3B, first paragraph, or within the stipulated period with the prohibition as referred to in Article 3B, second paragraph, shall be punished with imprisonment of a maximum of four years. If two or more persons commit the offense described in Article 3B, second paragraph, as a result of conspiracy, the imprisonment may also be increased by a third in respect of the leaders or instigators of conspiracy.

3. He who acts within the stipulated period in violation of the prohibition referred to in Article 3A, will be punished with imprisonment of at most one year or a fine of at most six hundred guilders.

4. The facts in the first and third paragraphs of this article are punishable as violations. The other offenses made punishable under this national ordinance are considered crimes.

Article 17.

(amended by no. 2).

1. [8] The ² countY. mediators, the extraordinary country mediators and the added staff; the special mediators referred to in

Article 8 and their additional committee members and the experts referred to in Article 9 are prohibited from doing what they have been shown or communicated to them further than is demanded for the fulfillment of the task assigned to them by or pursuant to this national ordinance or for the fulfillment of an obligation imposed by law.

2.¹ He who deliberately violates the secrecy imposed by or pursuant to the previous paragraph, will be punished with imprisonment of at most six months or a fine of at most three hundred guilders.

3. No prosecution will take place on the complaint of him, with regard to whom this confidentiality has been violated.

Article 18.

(expired at no. 6)

Article 19.

This national ordinance does not apply to disputes between persons who, other than by virtue of an employment contract, are employed by a body governed by public law and that body.

Article 20.

(expired in no. 2.).

Article 21.

(completely amended by no. 2.).

What is necessary for the implementation of this national ordinance, the Governor regulates general measures by national decree

[10]

Article 22.

All documents, petitions and decisions drawn up or submitted pursuant to [11] this national ordinance are free from the right to seal and to register.

Article 23.

This national ordinance can be cited under the title of "Labor Disputes Ordinance 1946".

Article 24.

This national ordinance enters into force with effect from the day following its announcement.

[1] With Iv. of January 3, 1949 (OJ 1949,2) with the quote title "Judicial Organization"; included elsewhere in this band.

[i] See the improvement sheet for OJ 1952, no. 30.

m See the Labor Peace Decree II, listed here on page 8.

[4] Read: "appointed".

m Read: "by him"

[§] Read: "with regard to the commitment, the arbitral tribunal".

[L] Read: "their added"

- [8] In OJ 1946, no. 119, the members of art. 17 not numbered.

c 21 Read resp. : "the.....the extraordinary"

[] See the Labor Peace Decree I (OJ 1946, no. 129) and the Labor Peace Decree III (OJ 1978, no. 243), after this on resp. P. 7 and p. 8.

⁽¹¹⁾ - The base text erroneously has "following from"

ANNEX VI

ANSWER to Non Conformity Conclusion article 6 par. 4 European Social Charter

- Notification of Withdrawal of a Reservation: article 6 paragraph 4 European Social Charter by Kingdom of the Netherlands, for **Cura ao**, 29th of May 2017 by the Council of Europe;
- Notification of Withdrawal of the Reservation made on The International Covenant on Economic and Social Rights (1966), for **Cura ao**, 6th of July 2017 by the Unites Nations, Treaty Section

EUROPEAN SOCIAL CHARTER
opened for signature, in Turin, on 18 October 1961

CHARTRE SOCIALE EUROPEENNE
ouverte à la signature, à Turin, le 18 octobre 1961

Reservations and Declarations
Reserves et Déclarations

NETHERLANDS

Withdrawal of a reservation contained in a Note Verbale from the Permanent Representation of the Netherlands dated 23 May 2017, registered at the Secretariat General on 29 May 2017 - Or. Engl.

* * The Kingdom of the Netherlands, for Aruba, Curacao and Sint Maarten, withdraws its reservation made with respect to Article 6, para 4, of the European Social Charter.

Note by the Secretariat: The declaration registered on 22 April 1980 read as follows:
"As regards the Netherlands Antilles, the Kingdom of the Netherlands considers itself bound by Articles 1 and 5, Article 6 (**except for civil servants**) and Article 16.,,

PAYS-BAS

Retrait d'une réserve consignée dans une Note Verbale de la Représentation Permanente des Pays-Bas, datée du 23 mai 2017, enregistrée au Secrétariat Général le 29 mai 2017- Or. angl.

Le Royaume des Pays-Bas, pour Aruba, Curaçao et Sint Maarten, retire sa réserve concernant l'article 6, paragraphe 4, de la Charte sociale européenne.

Note du Secrétariat: La déclaration enregistrée le 22 avril 1980 se lisait comme suit:
« En ce qui concerne les Antilles néerlandaises, le Royaume des Pays-Bas se considère comme lié par les articles 1 et 5, l'article 6 (**sauf pour les agents de la fonction publique**), et l'article 16. ».

**DIRECTORATE OF LEGAL ADVICE
AND PUBLIC INTERNATIONAL LAW~**

PUBLIC INTERNATIONAL LAW
AND TREATY OFFICE DIVISION



Strasbourg, 2 June 2017

Ref : JJ8409C
Tr./035-36

NOTIFICATION OF WITHDRAWAL OF A RESERVATION

Netherlands.

Instrument: European Social Charter, opened for signature, in Turin,
on 18 October 1961 (ETS No. 35).

Date of entry into force
of the instrument : 26 February 1965.

Date of entry into force
in respect of the Netherlands : 21 May 1980.

Reservation
withdrawn: ETS No. 35 Res./Decl. Netherlands.
(See Annex)

Date of effect
of the withdrawal
of the reservation: 29 May 2017.

Notification made in accordance with Article 35 of the Convention.

Copy to all member States + I.L.O.

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UNITED NATIONS
TREATY SECTION • OFFICE OF LEGAL AFFAIRS

July 06, 2017

Dear Dominique de Meijer,

The following Depositary Notification has been issued:

Subject :Human Rights
Title :International Covenant on Economic, Social and Cultural Rights
Action :Netherlands:Withdrawal of reservation
Reference :C.N.299.2017.TREATIES-2 (Depositary Notification) (Depositary Notification)

Please follow the links below in order to view the related documents.

Web Link:

English: <https://treaties.un.org/doc/Publication/CN/2017/CN.299.2017-Eng.pdf>

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Treaty Section / OLA

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