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## **EUROPEAN SOCIAL CHARTER**

9<sup>th</sup> National Report on the implementation of the European  
Social Charter  
submitted by

## **THE GOVERNMENT OF ARUBA**

(Article 16)

for the period  
01/01/2010 – 31/12/2013)

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**CYCLE XX-4 (2015)**



# European Social Charter

## Report by the Government of Aruba



*for the period*

*1 January 2010 – 31 December 2013*

*regarding Article 16 of the Charter*

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## Foreword

The Government of Aruba submits hereby its report for the period 1 January 2010 through 31 December 2013 in accordance with Article 21 of the European Social Charter, on the measures taken to give effect to Article 16 of the Charter, complying with any questions or requests for information consequent its previous report and responding to any comments made by the European Committee of Social Rights. Other than the information supplied in this report, no other changes in law or regulation has been effected during the reporting period. The Government therefore kindly refers the Committee to its past reports.

In accordance with Article 23 of the Charter, copies of this report have been communicated to the following representative organisations of workers and employers:

The Employer's organisations:

- The Aruba Hotel and Tourism Association
- The Aruba Trade and Industry Association
- The Association of Employers in the Aruban Building Industry

The Worker's organisations:

- The Aruban Union of Nurses
- The Federation of Workers of Aruba
- The Union of Public and Private Employees of Aruba

## **Social Protection of the family**

Social protection is considered a job for government entities and non-governmental organisations. In accordance with international conventions and the Constitution of Aruba, social protection is an obligation. The basic benefits are therefore regulated and government departments are in charge of carrying out these obligations on a continuous basis. Non-governmental organisations carry out their own programs in accordance with their respective statutes.

Aruba's legislation relevant to the social aspects regulate marriage; authority; guardianship; material assistance as it regards the less fortunate; pensions for retirees, widow(er)s and full and partial orphans; children's allowance, education, housing, tax benefits etc. Additionally, the Government supports various non-governmental organisations through subsidies.

### ***Housing for families***

The Fundacion Cas pa Comunidad (FCCA) builds homes for low-income and middle income families. Eligibility for housing subsidies is stipulated at a monthly income of Afl 3.125,00, of which no more than 30% may be for the rent itself. The FCCA and the Government recently signed a lease agreement in which the FCCA shall construct 20 homes in the form of a "Smart Community". These new houses will be built meeting standards of sustainable energy. This is a new development in home construction.

The FCCA has its own eviction policy. Eviction is permissible when the tenant fails to pay rent for a long period. Social workers of the Department of Social Affairs help those targeted for eviction avoid it. The FCCA is also requested to refer tenants to the Department of Social Affairs before the arrears become too high and difficult to make up. Of the 1.180 registered cases of social assistance, 106 (9%) are due to housing conflicts.

Home rentals are regulated in the Civil Code and the State Ordinance Rent Committee (SORC). The SORC gives the Committee the authority to determine rental prices up to a maximum of Afl. 100.000,00 (incl. property and construction value). The Committee is also authorised to intervene in cases when the landlord wishes to terminate the lease and the tenant wishes to extend it, in accordance with article 1587 of the Civil Code, that the lease automatically terminates without having to give notice. Should eviction take place, the evicted may be eligible, in accordance with art. 10 of the Welfare Assistance Decree (AB 1989 no. 88), for temporary emergency assistance in the form of housing.

### ***Childcare facilities***

Policies regarding children, the youth and families are directly carried out by Government departments and subsidised non-governmental organisations. In formulating these policies, the Government gives due attention and importance to the UNICEF report on Aruba 2012 as it regards the ICR-Treaty. In the best interest of the child, the teen and families, discussions are carried out between different government departments and organisations and between government department among themselves and between organisations themselves.

Child care in Aruba consists of: child day care for children and the handicapped; boarding institutions for children and the handicapped, and after school care. Due attention and consideration is given to the family's income for after school care. There are no new developments from those mentioned in the Governments report covering the years 2005 through 2009 as it regards Tra'i Merdia.

The Government subsidises organisations that provide child day care by way of a daily stipend. The Government has a separate contract with these organisations as it concerns the counsellors taking care of the children. The subsidised organisations provide training for its personnel and gives informational sessions to the parents. The Government views the contracts with the different organisations as an apparent prioritisation of the protection of children, under which those handicapped.

The maximum capacity for Casa Cuna is 36 children, but it currently houses 18 children. The maximum capacity for Imeldahof is 52 children; there are currently 37 children placed there.

#### **Additional information regarding the social protection of families**

1. The state ordinance regulating day care centres has not yet been completed.
2. The State Decree formalising the introduction of the State Ordinance Compulsory Education of 23 December 2011, was issued in 2012. For its implementation, the Bureau for Compulsory Education was created. The aforementioned state ordinance is applicable to children aged 4 through 17 years whose actual residence is in Aruba.
3. The Government accepted the application of ILO Convention 182 concerning the worst forms of child labour in 2011.
4. Article 11§2 of the State Decree for welfare assistance allows for income from labour by a live-in child to not be included in the household total income for one year, if the child (of no less than 16 years of age) provides written notice that (s)he intends to marry within the year.
5. In accordance with the ministerial decree of 6 November 2013 for the application of article 20§2 of the Labour Ordinance 2013 (AB 2013 no. 14) concerning regulation of hazardous work for juveniles, the prohibition is not applicable for work performed as part of his/her vocational training, provided that sufficient supervision exist for the protection against danger for the health and life of the juvenile.

#### **Psychosocial assistance for children and parents**

The Department of Social Affairs continually provides free assistance to children, spouses, families with children and other individuals. Besides the on-going 104 cases, the subsection Life and Family Difficulties received 307 new cases in 2012, of which 156 of the new clients were handled. The difference here has to do with cases in which the client did not return for a follow-up intake or was unreachable for the continuation of the assistance.

**Table 1. Top Issues for receiving assistance by the Department of Social Affairs**

<b>Top Issues</b>	<b>Percentage</b>
Relationship issues between spouses/partners	22,4%
Relationship issues parent-child	18,5%
Battery/domestic violence	13,4%
Phase of life	12,8%

The Department of Social Affairs offers support for the upbringing of children and parents by means of projects. The project *Un Base Firme* (a firm foundation) includes the following programmes:

- Conscious discipline for parents
- Social skills training for children 8 – 12 years old
- Social skills training for children 13 – 16 years old
- Mass media: publication of articles regarding the upbringing, spousal problems and financial problems in families.

Cooperation with other subsidised organisations

The Department of Social Affairs cooperated with the FADA (anti-drug foundation) with the *Paga Tino* (Pay Attention) campaign for training trainers. The Department now has two certified trainers.

The Department of Social Affairs also organises consultations with orphanages, boarding institutions and foster care as it regards placement of children outside of the home.

Additionally, the Department of Social Affairs participated in the projects: *Mama Soltero* (single mothers), Solid Parenting and *Abuso di Mucha* (child abuse).

Other subsidised foundations that extend assistance are the Telefon pa Hubentud (provides a listening ear to children), Fundacion pa Nos Muchanan and Fundacion Respeta Mi (gives information and support as a preventative measure), Asociacion di Trabou pa Hubentud na Aruba (an umbrella organisation providing support for smaller organisations serving the youth), YMCA, and the Youth Parliament.

### ***Participation of associations representing families***

#### **Legal protection of the family**

The term “family” is defined in article 197 of the new Civil Code as “a child, his parents and blood relatives shall be governed by family law”. The law protects the child and those who exercise authority over the child, or where the authority of the parents or parent lack, the law provides for guardianship.

#### **Spouses**

Spouses have an obligation of fidelity, help and assistance towards one another. They provide what is needed to each other. Spouses also have the obligation to take care of their children and provide for their upbringing (Articles 81 and 82 of the new Civil Code). Spouses may perform legal transactions with or without each other’s consent. However, spousal consent is necessary as it regards contracts for the sale, encumbrance or giving others use of or legal acts which terminate usage of a home that either both spouses or just one spouse inhabits or of which other goods and furnishings belong; contracts which compromise by way of collateral of making a spouse severally a debtor, other than through normal legal acts in the exercise of his/her profession; to make oneself responsible for a third party debt; purchases with instalment payments, other than those through normal legal acts in the exercise of his/her profession (article 88).



## Minors

Minors are subject to custody and are those who have not yet reached the age of eighteen years, are not wed, have never been wed, or have not been declared of age (article 233). The term custody refers to parental custody, or guardianship.

This custody (articles 251 and 252) is exercised by both parents jointly or by one parent after divorce. Where only the mother is known, or where the parents of the child are not wed, or have never been wed and don't jointly exercise custody over the child, the custody falls on the mother automatically, unless the mother was declared unfit for this custody at parturition (article 253b).

Parental custody extends to the person of the minor child, control over his assets, and representation in civil transactions, both in legal and other proceedings. Furthermore, this custody encapsulates the obligation and right of the parent to take care of and bring up the child. This entails the care and responsibility for the mental and physical welfare of the child and the advancement of the development of his personality. This responsibility is also applicable to those who have guardianship of the child and those that take care of and bring up the child, even if custody is not awarded to that person (articles 247 and 248).

The income of both spouses shall cover household expenses which include the expenses of care of the children. Should the joint income be insufficient, then a proportionate part of each individual income shall be therefore ascribed. Where the spouses disagree, either spouse or both spouses may request the Court to make a decision.

Should there be a conflict of interest between the parent(s)/guardian and the child, as it concerns his care, upbringing or assets, the Court of First Instance may appoint a special trustee at the request of the affected party or at the judges official discretion (article 250). The parent(s) must manage their child's assets as any good manager should. Otherwise, the parent(s) may become liable for poor management, except where the law grants the parent(s) rights of usufruct (article 253j).

## **Economic protection of the family**

### ***Family Benefits of a sufficient amount***

Families consisting of a father and/or mother and children receive a monthly family assistance. As per the 1<sup>st</sup> of January 2010, the amount received by the head of the household increased with Afl. 85, from Afl. 325 to Afl. 410 monthly; the amount per family member increased with Afl. 35, from Afl. 140 to Afl. 175 monthly; school-going children of four years up to the age of 24 years who attend regular day schooling, receive Afl. 100 each per month. As per the 1<sup>st</sup> of January 2011, this amount was doubled and the age was lowered to three years. Persons with limitations, as defined in article 8§1 of AB 1988 no. 88, receive a monthly assistance in the amount of Afl. 947, up from Afl. 847.

**Table 2. Social Assistance Receivers, 2010 - 2012**

<b>2010</b>	<b>2011</b>	<b>2012</b>
1.963	2.312	2.628

**Table 3. Minimum Wage 2010 – 2013, in Afl.**

	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
Industry	1.542,90	1.542,90	1.604,60	1.636,70
Service/Trade	1.542,90	1.542,90	1.604,60	1.636,70
Domestic Serv.	719,80	719,80	748,60	763,55

**Wage Supplement (Reparatietoeslag)**

As a means to suppress the negative effects of the loss of purchasing power for the most financially vulnerable, the Government, as a result from consultation with its social partners, introduced a wage supplement for those workers in the private sector earning a wage between Afl. 1.636,69 and Afl. 2.450,00. This wage supplement varies from Afl. 30 to Afl. 100 per month, depending on the monthly wage.

**Policy Statements by the current minister of Social Affairs, Youth and Labour**

- Participation and inclusion are key.
- De minister shall strive to formalise the cooperation among the pertinent institutions through covenants and protocols.
- This sustainable development shall lead to healthy youth that participate in the community and are motivated to develop and expand their talents.
- It will become a policy for Generation of Leaders in Aruba.