January 2026

European Social Charter

European Committee of Social Rights

Conclusions XXIII-1

NETHERLANDS IN RESPECT OF CURAÇAO

This text may be subject to editorial revision.

The function of the European Committee of Social Rights is to rule on the conformity of the situation in States with the European Social Charter. In respect of national reports, it adopts conclusions; in respect of collective complaints, it adopts decisions.

A presentation of this treaty as well as statements of interpretation formulated by the Committee appear in the General Introduction to the Conclusions.[1]

The 1961 European Social Charter was ratified by the Netherlands in respect of Curaçao on 23 January 2004. The time limit for submitting the 11th report on the application of this treaty to the Council of Europe was 31 December 2024 and the Netherlands in respect of Curaçao submitted it on 31 January 2025. On 9 July 2025, a letter was addressed to the Government requesting supplementary information regarding Article 6§1. The Government submitted its reply on 27 August 2025.

The present chapter on the Netherlands in respect of Curaçao concerns 4 situations and contains:

– 1 conclusion of conformity: Article 6§1

– 3 conclusions of non-conformity: Articles 5, 6§2, 6§4

The next report from the Netherlands in respect of Curaçao will be due on 31 December 2026.

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[1] *The conclusions as well as state reports can be consulted on the Council of Europe's Internet site (www.coe.int/socialcharter).*

Article 5 - Right to organise

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

The Committee recalls that for the purposes of the present monitoring cycle, States were asked to reply to the targeted questions for Article 5 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions.

Positive freedom of association of workers

In its targeted question a), the Committee asked for information on measures that have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy).

In reply, the report provides an overview of the institutional, legislative, and practical measures undertaken by the Government of Curaçao to safeguard the rights to freedom of association, collective bargaining, and social dialogue. It states that the Mediator's Office is the central mechanism for preserving and restoring of labour peace in Curaçao. Its mandate encompasses monitoring industrial relations, mediation in collective labour disputes, and facilitating amicable settlements between employers and employees. The report explains that in 2023-2024, the Office received fifty-four formal requests for mediation between employers and workers' organisations, including two applications for recognition of trade unions which were submitted by employers.

Moreover, according to the report, the Tripartite Platform Diálogo Nashonal Kòrsou ta Avansá continued to operate as a structured forum for dialogue between government, employers' associations, and workers' organisations. In 2023, the platform addressed several matters of significant socio-economic importance, including the revision of the Statutory Minimum Wage, enhancing social welfare for vulnerable groups (concerning allowances for unemployed persons and persons with disabilities), increasing the older persons' pension allowance, and public and private training initiatives (on-the-job trainings courses within the tourism and hospitality sector).

The report further states that the Economic and Social Council remains a pivotal advisory and consultative organ, fostering dialogue and consensus among social partners and providing policy advice to the Government and Parliament. In 2023, the Council held fourteen preparatory and fourteen plenary sessions. It received formal requests for advice from several ministries and Parliament on legislative and policy matters, including amendments to the Civil Code concerning paid leave for public servants, revisions to the ordinance governing land acquisition; and proposed amendments to the National Ordinance on Profits Tax.

The report does not provide any information on measures that have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy). The Committee did not find evidence, including from outside sources, that Curaçao has legislation specifically addressing digital platform work and explicitly granting trade union rights to platform workers. Nor did the Committee find evidence on whether platform workers in Curaçao are legally treated as employees (vs contractors), and whether the domestic case-law explicitly grants platform workers the ability to unionise even when classified as "self-

employed." It is not clear whether, in practice, platform workers in Curaçao are organising or whether unions are engaging them.

In the absence of an answer to its targeted question and of any other information on the above issues, the Committee concludes that no measures have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors (e.g., the gig economy).

Legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining

In a targeted question, the Committee requested information about the legal criteria for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining (targeted question b).

The report does not provide any answer in this respect.

The Committee notes from the report that there is a tripartite platform in Curaçao for social dialogue involving government and social partners, on issues such as minimum wage and other labour-policy related topics.

The Committee notes that according to the provisions of National Ordinance of 12 May 1958 regulating the collective labour agreement, a collective labor agreement is defined as an agreement entered into by one or more employers, or one or more employers' associations with full legal capacity, and one or more employees' associations with full legal capacity, which primarily or exclusively regulates the terms and conditions of employment to be observed in employment contracts (Article 1). An association of employers is authorized to enter into collective labour agreements if the association's articles of association expressly specify this authority (Article 2). Under Article 3, a collective labour agreement can only be entered into in writing.

The Committee does not find any other criteria in the Ordinance of May 1958 for determining the recognition of employers' organisations for the purposes of social dialogue and collective bargaining. The Ordinance focuses on legal capacity and statutes (Art. 1–2) and does not lay down a percentage or number of employers required for "recognition".

Legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining

In a targeted question, the Committee requested information on the legal criteria for determining the recognition and representativeness of trade unions in social dialogue and collective bargaining. It particularly requested information on the status and prerogatives of minority trade unions; and the existence of alternative representation structures at company level, such as elected employee representatives (targeted question c)).

The report does not provide any answer in this respect.

The Committee notes that according to Article 14a of the National Ordinance of 23 July 1946 on Industrial Peace, at the request of the employer or the board of an employee union, the mediator may hold a referendum among one or more categories of employees in a company, to be determined by the mediator, in order to determine which unions are designated by the majority of those employees to represent them in handling their employment affairs. Only legally incorporated employee unions, whose articles of association specifically specify the authority to enter into collective bargaining agreements, and which have submitted documents to the mediator demonstrating that the majority of the relevant category or categories of employees are members of that association, may participate in the referendum. The employer is obliged, regarding the conclusion of a collective labour agreement, to negotiate with the

board of the employees' trade union that was appointed by the majority of employees in the referendum to represent them in the management of their labour affairs.

The Committee recalls that requirements for representativeness, though allowed under the Charter, must not excessively limit the possibility of trade unions to participate effectively in collective bargaining procedures. In its jurisprudence, the Committee considered that the restriction to collective bargaining to trade unions representing at least 33% of employees concerned was in violation of Article 6§2 (Conclusions XIX-3 - The former Yugoslav Republic of Macedonia - Article 6-2). It recalls that similar criteria apply under Article 5 of the Charter.

For the Committee, the requirement that the trade union has at least 50% of employees as members in order to be recognised as representative is excessive.

The Committee concludes that the minimum membership requirements in order for a trade union to be recognised as representative are too high and in breach of Article 5.

The right of the police and armed forces to organise

In a targeted question, the Committee requested information on whether and to what extent members of the police and armed forces are guaranteed the right to organise (targeted question d)).

The report does not provide any answer in this respect.

The Committee notes from public sources that there are recognised unions representing police personnel: for example, the *Nationaal Algemene Politie Bond* (the National General Police Union (NAPB)) is active on behalf of the police in Curaçao. The Sindikato Ambtenarnan di Polis i Kadena Hudisial (SAP) likewise represents police officers and engages with government. These unions are members of or linked to the “Central Commission of Trade Unions” (Centrale Commissie van Vakbonden) in the context of the public-service bargaining mechanism.

The Committee therefore concludes that in practice, police members are guaranteed the right to organise and to form unions/associations in Curaçao.

With regard to the armed forces, the Committee notes from outside sources (https://www.defensie.nl/) that Curaçao does not maintain a separate national military force under its independent control. The defence function is fulfilled by the Netherlands armed forces.

Conclusion

The Committee concludes that the situation in Curaçao is not in conformity with Article 5 of the Charter on the grounds that:

- no measures have been taken to encourage or strengthen the positive freedom of association of workers, particularly in sectors which traditionally have a low rate of unionisation or in new sectors.
- the minimum membership requirements for a trade union to be recognised as representative are too high.

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.

The Committee recalls that for the purposes of the present report, States were asked to reply to the targeted questions for Article 6§1 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

The assessment of the Committee will therefore concern the information provided in the report in response to the targeted questions.

Measures to promote joint consultation

In a targeted question, the Committee asked as to what measures are taken by the Government to promote joint consultation. The Committee observes that the report does not provide any separate and specific reply to the targeted questions. It may be deduced from the global submissions provided under Article 5 and 6 that the Government promotes joint consultations through the Tripartite Platform ('Dialogo Nashonal Kòrsou ta Avansá), the Economic and Social Council (SER) and the Central Committee for Organized Civil Service Consultation (CCGO-A).

According to the information available on its website, the SER consists of three members each representing employer's employee's and interests other than that of the business community. As well as advising the government and parliament on social and economic policy, the SER provides social partners with a platform to consult on issues affecting workers and employers.

Issues of mutual interest that have been the subject of joint consultations and agreements adopted

In a targeted question, the Committee asked as to what issues of mutual interest have been the subject of joint consultation during the past five years, what agreements have been adopted as a result of such discussions and how these agreements have been implemented.

The report states that the following topics were discussed between the Government and the social partners at the Tripartite Platform: The increase of the statutory minimum wage in 2023 and 2024; the increase of the welfare for vulnerable groups leading to an increase by 30% as of 14th July 2023; the increase of the special provision for elderly person in addition to their old age pension as of 14th July 2023; the joint launch of a public-private initiative (which is still ongoing) to train and upgrade youngsters to work in the hotel and restaurant sector; and the negotiation of a new Social Security Plan aiming at making the Social Fund for the General Elderly Pension more sustainable in the light of the ongoing ageing of the population, exploring the social implications of different options. This topic will be elevated on national level, involving more stakeholders to make the outcome more inclusive and achieving a broader support base.

In 2023, 14 preparatory and 14 plenary meetings of the SER took place and issued advice on subject such as paid leave of absence of public servants; acquisition of property; profits tax, and others. The *CCCGO-A* met 24 times for 17 plenary meetings and 17 preparatory meetings and was consulted on a number of proposals on pensions regulations, health insurance and the elimination of emergency measures taken during Covid-19.

Joint consultation on the digital transition and the green transition

In a targeted question, the Committee asked if there has been any joint consultation on matters related to (i) the digital transition, or (ii) the green transition.

In response to a request for additional information the report states that, since 1987, the SER has proactively advised the government on the implications of digitalisation and the green transition.

Digital transition

According to the report, the SER emphasised in its earlier publications, the imortance of an inclusive labour market with equal opportunities for all, highlighting topics such as hybrid working and the impact of technology on decent work in the near future. The advantages and disadvantages of digitalisation were both presented, with an emphasis on achieving a balance between the efficiency of new technologies and inclusion and adaptability. Lately, the SER presented a consultation tool to appropriately address digitalisation and the green transition, such as an educational plan for work councils. However, these work councils have not yet been anchored in national legislation.

In line with the SER's advice, the government has been actively working towards strengthening a more digital society. The government administration's focus is on improving digital services, infrastructure, and citizen skills.

Green transition

The report states that, as of the early 2000s, the SER has advised on the green transition, emphasising the importance of sustainability within the economic framework. The SER advocates sustainability, which can be achieved through investment in green energy, environmental protection and tackling the effects of climate change.

Moreover, the SER successfully stimulated the government to create a more sustainable and resilient economy, focusing on the energy transition and aiming for a more inclusive welfare system and labour market.

As an example of successful joint consultation supporting the transition process, the Government refers to Curaçao’s government-owned utilities company, where the government and its stakeholders embarked on a crucial digital transformation journey through joint consultations.

In addition, in line with the SER's advice on this subject, an inter-ministerial working group is developing a Climate Strategy Roadmap and a Climate Impact Atlas to mitigate the impacts of climate change and build resilience. This initiative is strongly supported by private stakeholders, NGOs and visionaries within the local population, and is ongoing.

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.

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.

The Committee recalls that, for the purposes of the present report, States were asked to reply to targeted questions for Article 6§2 of the 1961 Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

In its previous conclusion, the Committee found that the situation in the Netherlands in respect of Curaçao was not in conformity with Article 6§2 of the 1961 Charter on the ground that it had not been established that the promotion of collective bargaining was sufficient (Conclusions XXII-3 (2022)). The assessment of the Committee will therefore concern the information provided by the Government in response to the targeted questions, including the previous conclusion of non-conformity as related to the targeted questions.

Coordination of collective bargaining

In a targeted question, the Committee asked for information on how collective bargaining was coordinated between and across different bargaining levels. Specifically, the question sought details on factors such as *erga omnes* clauses and other mechanisms for the extension of collective agreements, as well as to the favourability principle and the extent to which local or workplace agreements could derogate from legislation or collective agreements concluded at a higher level.

The report does not provide the requested information.

Promotion of collective bargaining

In a targeted question, the Committee asked for information on the obstacles hindering collective bargaining at all levels and in all sectors of the economy (e. g. decentralisation of collective bargaining). The Committee also asked for information on the measures taken or planned to address those obstacles, their timeline, and the outcomes expected or achieved in terms of those measures.

The report notes only that the Bureau of Mediation registered eight collective agreements that had been successfully negotiated, in addition to 14 collective agreements already registered.

The Committee considers that the report lacks adequate information on the operation of collective bargaining in law and in practice. It therefore 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.

Self-employed workers

In a targeted question, the Committee asked for information on the measures taken or planned to guarantee the right of self-employed workers, particularly those who are economically dependent or in a similar situation to employees, to bargain collectively.

The report does not provide the requested information.

The Committee recalls that rapid and fundamental changes in the world of work have led to a proliferation of contractual arrangements designed to avoid the formation of employment relationships and to shift risk onto the labour provider. As a result, an increasing number of workers who are de facto dependent on one or more labour engagers fall outside the traditional definition of an employee (*Irish Congress of Trade Unions (ICTU) v. Ireland*, Complaint No. 123/2016, decision on the merits of 12 September 2018, §37). In establishing

the type of collective bargaining protected by the Charter, it is not sufficient to rely solely on distinctions between workers and the self-employed; the decisive criterion is whether an imbalance of power exists between providers and engagers of labour. Where providers of labour have no substantial influence on the content of contractual conditions, they must be given the possibility of improving that imbalance through collective bargaining (*ICTU v. Ireland*, §38).

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 sufficient measures have been taken to promote the right to collective bargaining in respect of self-employed workers, particularly those who are economically dependent or in a similar situation to employees.

Conclusion

The Committee concludes that the situation in 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;
- sufficient measures have been taken to promote the right to collective bargaining in respect of self-employed workers, particularly those who are economically dependent or in a similar situation to employees.

Article 6 - Right to bargain collectively

Paragraph 4 - Collective action

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

The Committee recalls that for the purposes of the present report, States were asked to reply to targeted questions for Article 6§4 of the Charter (see the appendix to the letter, whereby the Committee requested a report on the implementation of the Charter in respect of the provisions falling within Group 1).

Prohibition of the right to strike

In its targeted questions, the Committee asked States Parties to indicate the sectors where the right to strike is prohibited as well as to provide details on relevant rules and their application in practice, including relevant case law.

The report does not provide any information in response to these questions. The Committee therefore concludes that this situation is not in conformity with Article 6§4 of the 1961 Charter on the grounds that it has not been established that any prohibition on the right to strike is in conformity with the Charter.

Under Article G of the revised Charter (Article 31 of the 1961 Charter), the right to strike of certain categories of public servants may be restricted, including members of the police and armed forces, judges and senior civil servants (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, §113, citing Conclusions I (1969), Statement of Interpretation on Article 6§4).

Restrictions to the right to strike of certain categories of civil servants, for example those whose duties and functions, given their nature or level of responsibility, are directly affecting the rights and freedoms of others, the public interest, national security or public health, may serve a legitimate purpose in the meaning of Article G (Article 31 of the 1961 Charter)(Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour “Podkrepa” and European Trade Union Confederation (CES) v. Bulgaria, Complaint No. 32/2005, decision on the merits of 16 October 2006, §45). The Committee takes the view, however, that a denial of the right to strike to public servants as a whole cannot be regarded as compatible with the Charter (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, §113, citing Conclusions I (1969)), Statement of Interpretation on Article 6§4. Allowing public officials only to declare symbolic strikes is not sufficient (Confederation of Independent Trade Unions in Bulgaria (CITUB), Confederation of Labour “Podkrepa” and European Trade Union Confederation (CES) v. Bulgaria, Complaint No. 32/2005, decision on the merits of 16 October 2006, §§44-46).

Moreover, the imposition of an absolute prohibition of strikes to categories of public servants, such as prison officers, firefighters or civil security personnel, is incompatible with Article 6§4, since such an absolute prohibition is by definition disproportionate where an identification of the essential services that should be provided would be a less restrictive alternative.

Restricting strikes in specific sectors essential to the community may be deemed to serve a legitimate purpose where such strikes would pose a threat to the rights and freedom of others or to the public interest, national security and/or public health (Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114; Conclusions I (1969), Statement of Interpretation on Article 6§4).

However, a comprehensive ban of strikes even in essential sectors – particularly when they are extensively defined, such as “energy”, “health” or "law enforcement" – is not deemed proportionate, to the extent that such comprehensive ban does not distinguish between the different functions exercised within each sector (Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114). Simply prohibiting

these workers from striking, without distinguishing between their particular functions, cannot be considered proportionate to the aim of protecting the rights and freedom of others or for the protection of public interest, national security, public health, or morals, and thus necessary in a democratic society (Conclusions XVII-1 (2006), Czech Republic). At most, the introduction of a minimum service requirement in these sectors might be considered to be in conformity with Article 6§4, taking into account article G of the Charter (Matica Hrvatskih Sindikata v. Croatia, Complaint No. 116/2015, decision on the merits of 21 March 2018, §114; see also Conclusions XVII-1 (2006), Czech Republic).

Concerning police officers, an absolute prohibition on the right to strike can be considered to be in conformity with Article 6§4 only if there are compelling reasons justifying why such an absolute prohibition on the right to strike is justified in the specific national context in question, and why the imposition of restrictions as to the mode and form of such strike action is not sufficient to achieve the legitimate aim pursued (European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on the admissibility and merits of 2 December 2013, §211). Where restrictions to the right to strike of police officers are so excessive as to render the right to strike ineffective, such restrictions will be considered to have gone beyond those permitted by Article G of the Charter. (European Confederation of Police (EuroCOP) v. Ireland, Complaint No. 83/2012, decision on the admissibility and merits of 2 December 2013, §211), This includes situations where police officers may exercise the right to strike, but only provided certain tasks and activities continue to be performed during the strike period, including the prevention, detection and documentation of criminal offences; arrests; regulation and control of road traffic; protection of people and property; border control and; prevention and handling of incidents at borders.(Conclusions 2022, North Macedonia).

The right to strike of members of the armed forces may be subject to restrictions under the conditions of Article G (Article 31 of the 1961 Charter), i.e. if the restriction is established by law, and is necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals. This includes a requirement that the restriction is proportionate to the aim pursued. The margin of appreciation accorded to States in terms of the right to strike of the armed forces is greater than that afforded to States Parties in respect of the police (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, § 114-116).

Having regard to the special nature of the tasks carried out by members of the armed forces, the fact that they operate under a system of military discipline, and the potential that any industrial action disrupting operations could threaten national security, the Committee considers that the imposition of an absolute prohibition on the right to strike may be justified under Article G (Artilce 31 of the 1961 Charter), provided the members of the armed forces are have other means through which they can effectively negotiate the terms and conditions of employment, including remuneration (European Organisation of Military Associations (EUROMIL) v. Ireland, Complaint No. 112/2014, decision on the merits of 12 September 2017, §117; Confederazione Generale Italiana del Lavoro (CGIL) v. Italy, Complaint No. 140/2016, decision on the merits of 22 January 2019, §152; European Organisation of Military Associations (EUROMIL) v. Portugal, Complaint No. 199/2021, decision on the merits of 11 September 2024, §100).

Restrictions on the right to strike and a minimum service requirement

In the targeted questions, the Committee asked States Parties to indicate the sectors where there are restrictions on the right to strike as well as to provide details on relevant rules and their application in practice, including relevant case law.

The report does not provide any information in response to these questions. he Committee therefore concludes that this situation is not in conformity with Article 6§4 of the 1961 Charter on the grounds that it has not been established that any restrictions on the right to strike is in conformity with the Charter.

Prohibition of the strike by seeking injunctive or other relief

The Committee has asked States Parties to indicate whether it is possible to prohibit a strike by obtaining an injunction or other form of relief from the courts or another competent authority (such as an administrative or arbitration) and if the answer is affirmative, to provide information on the scope and number of decisions in the past 12 months.

The report does not provide any information in response to these questions.

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 any prohibitions and restrictions on the right to strike are in conformity with the Charter.