

04/03/2022

RAP/RCha/NLD/15(2022)

## **EUROPEAN SOCIAL CHARTER**

15th National Report on the implementation of the European  
Social Charter

submitted by

**THE GOVERNMENT OF THE NETHERLANDS**

Follow-up to Collective Complaints

Report registered by the Secretariat on  
23 December 2021

**CYCLE 2022**



# **THE EUROPEAN SOCIAL CHARTER**

## **The Netherlands' Thirty-fourth Report**

Simplified report 2021

## Report

made by the Government of the Netherlands in accordance with Article C of the Revised European Social Charter, on the measures taken to give effect to the accepted provisions of the European Social Charter.

In accordance with Article C of the revised European Social Charter, copies of this report have been communicated to:

- Netherlands Trade Union Confederation FNV
- National Federation of Christian Trade Unions in the Netherlands CNV
- Confederation of Netherlands Industry and Employers (VNO-NCW) and MKB Nederland

**Report in respect of the Kingdom in Europe**

**Information on the follow-up given to the decisions of the European Committee Social Rights relating to the collective complaints:**

1. ***European Federation of National Organisations Working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 02/07/2014, violation of Articles 31§2, 19§4(c) and 30***

In response to the figures published by Statistics Netherlands (CBS) on the number of homeless people in the Netherlands in 2018 (39,000<sup>1</sup>), the Dutch government introduced additional measures to reduce these numbers. In 2020 central government launched a plan entitled 'A Home, a Future' and topped up the existing budget for shelters in the community by €200 million intended for preventing homelessness, transforming shelters and increasing assisted housing capacity. The results of these efforts are tracked in an extensive monitor, with municipalities providing figures on the number of homeless people, shelter capacity and various qualitative indicators, such as the conversion of dormitories in shelters to rooms for one or two people. The Ministry of the Interior and Kingdom Relations has also made funding available to house vulnerable groups, including the homeless.

During the COVID-19 pandemic, extra measures have been taken to provide safe shelter for homeless people. Institutional shelters have been adapted in line with the 1.5 metre distancing rule and made as accessible as possible. As a result, municipalities were able to accommodate hundreds of additional people during lockdown. Even after lockdown, many municipalities decided to continue organising shelter accommodation on a smaller scale.

According to the CBS, the number of homeless people decreased from 39,300 in 2018 to 32,000 in 2021,<sup>2</sup> indicating that the Dutch government's strategy is paying off. Over the next few years central government will continue to work with municipalities, accommodation providers and other stakeholders to ensure that this downward trend is sustained. It will be up to the next government to work out the details.

2. ***University Women of Europe (UWE) v. the Netherlands, Complaint No. 134/2016, decision on the merits of 06/12/2019, violation of Articles 4§3 and 20.c, Recommendation CM/RecChS(2021)11***

---

<sup>1</sup> <https://www.cbs.nl/nl-nl/cijfers/detail/84990NED?dl=4FC10.g>

<sup>2</sup> <https://www.cbs.nl/nl-nl/nieuws/2021/44/aandeel-jongere-daklozen-in-5-jaar-tijd-gehalveerd>.

In the report of 6 December 2019 on complaint number 134/2016 (*University Women of Europe (UWE) v. the Netherlands*), the European Committee of Social Rights of the Council of Europe (hereinafter: 'the Committee') concluded that the Netherlands fulfils its obligations under the European Social Charter in most respects. The Committee also concluded, however, that the Netherlands fell short on two points, and accordingly made the following recommendation to promote equal pay for men and women:

- pursue and finalise the adoption of measures to improve pay transparency taking into account parameters for establishing the equal value of the work performed, such as the nature of the work, training and working conditions;
- review and reinforce existing measures aimed at reducing and eliminating the gender pay gap and consider adopting any new measures that may bring about measurable progress within reasonable time in this respect;
- indicate the decisions and actions taken to comply with this recommendation in the next report on follow-up to decisions in collective complaints [31/10/2021].

### **2.1 Pay transparency**

**Pursue and finalise the adoption of measures to improve pay transparency taking into account parameters for establishing the equal value of the work performed, such as the nature of the work, training and working conditions**

The Committee recommends introducing pay transparency measures in order to effectively identify pay inequality. Employers should be required to regularly provide information on pay, broken down by gender. This should include identifying work of equal value, taking into account the nature of the work, training and working conditions.

The Dutch government places great importance on further reducing the gender pay gap, and greater transparency can be beneficial in this respect. The effect of highlighting disparities can help raise awareness among companies, organisations and employees, and can also encourage discussion on the subject within organisations and in society at large. In March 2021 the European Commission presented a proposal for a Directive on improving pay transparency and strengthening enforcement mechanisms to protect the right to equal pay. This proposal contains various transparency measures, such as workers' right to information and a reporting obligation for employers with at least 250 employees. The Dutch government's stance on this proposal is largely positive. Coordinated action at European level to promote equal pay and pay transparency can help enforce the fundamental right to equal pay throughout the EU and will also ensure a similar level of protection for workers across the EU. On December 6 2021 the Council reached a general approach on the proposal, which the Netherlands supported. The European Parliament still has to reach an

agreement, after which the negotiations between the Parliament and the Council on this proposal will start.

Furthermore, a number of opposition parties submitted an amended private member's bill on equal pay to the House of Representatives on 5 October 2020. The bill includes an obligation for employers to report the scale of pay disparities between their male and female employees. In addition, companies that, as a rule, employ at least 250 people must obtain a certificate showing that they provide equal pay to men and women. The bill is currently being debated in the House of Representatives.

To prepare for the introduction of European legislation on pay transparency, a study is expected to start early in 2022 into how the value of work is currently determined, what parameters are used in the process and what best practices can be shared. The researchers will also analyse what methods are already applied in the Netherlands and other countries to promote equal pay, e.g. pay transparency. The findings of the study should provide an overview of the tools and methods that employers can use to meet the requirements of the Directive, with an emphasis on practices that can be scaled up and shared.

In addition, before the European legislation is fully drafted and implemented, efforts will be made, in consultation with the stakeholders involved such as employers' organisations and trade unions, to support employers and employees in developing and applying methods and tools to reduce pay disparities.

## ***2.2 Gender pay gap***

**Review and reinforce existing measures aimed at reducing and eliminating the gender pay gap and consider adopting any new measures that may bring about measurable progress within reasonable time in this respect**

The Committee's recommendation involves taking measures to further reduce the gender pay gap. In practice, there is still a pay disparity between men and women, and although it has narrowed in recent years, the pace of change is slow. Commissioned by the Dutch Ministry of Social Affairs and Employment, Statistics Netherlands (CBS) conducts a biennial survey (referred to as a monitor) on the gender pay gap. The latest CBS monitor was published in December 2020 and contains information about pay disparities in 2018. It shows that the unadjusted pay disparity (pay gap) between men and women that year was 19% in the private sector and 8% in the public sector. Adjusting the data for various background characteristics known to influence pay, the gap in 2018 was 7% and 4%, respectively. Over the years since 2008, there has been a steady downward trend in both unadjusted and adjusted pay disparities.

Although the CBS surveys show that the gender pay gap has been narrowing since 2008, progress has been slow, so it is important to continue making substantial efforts to effect change on this front. The Netherlands is pursuing several measures to promote the principle of equal pay for men and women. In large part, the pay gap is a reflection of the different positions of men and women in the labour market, so it is important to strengthen women's position in the labour market. For instance, women in the Netherlands often work part-time, in many cases less than 24 hours a week, which means they earn less than men and have fewer career opportunities.<sup>3</sup> Various measures have been and continue to be taken to encourage women to voluntarily extend their working hours. As mentioned previously, this includes extending partner leave after the birth of a child,<sup>4</sup> investing in childcare, reducing the tax burden on income from work, applying the existing Flexible Working Arrangements Act and conducting awareness-raising campaigns. In addition, the Paid Parental Leave Act was passed by both houses of parliament in 2021 and will enter into force in August 2022.

Another factor that contributes to the different labour market position of men and women is the fact that men are more often employed in senior positions or in sectors where the salaries are higher. Fewer women are promoted to senior posts in either the public or the private sector. The Dutch government has therefore submitted a bill setting quotas for supervisory boards of listed companies, which must comprise at least one-third female and one-third male members. If this is not yet the case in a company, any new board appointment that does not contribute to gender balance will be null and void. Large companies will also have to set appropriate and ambitious gender balance targets for senior and upper management, be transparent about these targets and draw up a plan outlining how and when they will achieve them. This data will be published on a website the Social and Economic Council is currently developing. The bill was passed by both houses of parliament in 2021 and will enter into force on 1 January 2022.

Efforts to promote equal pay for work of equal value are part of the government's 2018-2021 Action Plan on Labour Market Discrimination and various targeted measures have already been taken or are planned. On 21 September 2020, for instance, the Labour Foundation (the national consultative body of central organisations of employers and employees) published its digital guide to equal pay for men and women, in which it provides background information and guidance to help promote equal pay. It is intended for various target groups in the business community.<sup>5</sup> The Recruitment Code (*Sollicitatiecode*) of the Dutch Network for HR Professionals (NVP) also

---

<sup>3</sup> Government's response to the Interministerial Policy Review on part-time work (*IBO deeltijd*), p. 2.

<sup>4</sup> Since 1 January 2019, partner leave following the birth of a child in the Netherlands is equal to the partner's regular number of working hours for one week. As of 1 July 2020, partners are entitled to take supplementary partner leave equal to up to five times their regular number of working hours per week (for 70% of their daily pay, capped at 70% of the national maximum daily wage).

<sup>5</sup> <https://www.stvda.nl/nl/thema/arbeid-zorg/gelijke-beloning>.



contributes to closing the gender pay gap and is designed to prevent – often unintentional – labour market discrimination and reduce pay disparities.<sup>6</sup> The purpose of this code is to set a standard for a transparent and fair recruitment and selection process. Furthermore, until the end of 2019, the Dutch government helped fund a WOMEN Inc. campaign to make women and employers more aware of the gender pay gap. This included the *#15procent minder* (#15 per cent less) campaign and the *Gelijk Loon Check* (Equal Pay Check), a simple tool that employers can use to determine whether there is a pay gap within their organisation. In 2021 WOMEN Inc. was again awarded a grant, which it will use over the next several years for various activities aimed at raising employers' awareness and providing them with tools to promote equal pay.

## **Report in respect of the Caribbean part of the Netherlands**

### **Article 5 – The right to organise**

*With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle*

---

<sup>6</sup> The current NVP Recruitment Code has been updated by the Recruitment Code Committee, in close collaboration with the Labour Foundation, and brought in line with recruitment and selection practices in 2020: <https://www.nvp-hrnetwerk.nl/sollicitatiecode>.

*governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.*

***a) Please provide data on trade union membership prevalence across the country and across sectors of activity, as well as information on public or private sector activities in which workers are excluded from forming organisations for the protection of their economic and social interests or from joining such organisations. Also provide information on recent legal developments in these respects and measures taken to promote unionisation and membership (with specific reference to areas of activity with low level of unionisation, such as knowledge workers, agricultural and seasonal workers, domestic workers, catering industry and workers employed through service outsourcing, including cross border service contracts).***

There are no laws or regulations that restrict workers' freedom to unionise in the Caribbean Netherlands. Trade union membership is possible across all sectors. To give an example: Bonaire, with a population of around 22,000, has seven trade unions, each covering a separate sector. The Dutch government does not collect statistics on trade union membership and is therefore not in a position to provide current information.

There are no legal developments that influence unionisation and membership. Similarly, central government has taken no measures to promote unionisation or membership, leaving this primarily to the trade unions and social partners. Over the past few years the government has actively supported efforts to strengthen social dialogue in the Caribbean Netherlands, particularly in Bonaire and St Eustatius, and is prepared to support capacity-building initiatives for workers' and employers' organisations.

***b) Also provide information on measures taken or considered to proactively promote or ensure social dialogue, with participation of trade unions and workers organisations, in order to take stock of the COVID-19 crisis and pandemic and their fallout, and with a view to preserving or, as the case may be, restoring the rights protected under the Charter after the crisis is over.***

Over the past few years the Dutch government has actively supported efforts to strengthen social dialogue in the Caribbean Netherlands, particularly in Bonaire and St Eustatius. With the support of the Ministry of Social Affairs and Employment, Bonaire's Central Dialogue, the consultative body of employers, unions, the Chamber of Commerce and local government, was given new impetus in 2018, providing a platform for social dialogue. This was followed by St Eustatius's Central Dialogue, which was launched in 2020. During the COVID-19 pandemic, these social dialogue institutions, in

which trade unions are represented, were regularly consulted in different phases of the emergency response. They also proactively provided input and advice to the Dutch government. The crisis has therefore increased the visibility of these institutions and highlighted their relevance.

***c) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.***

Not applicable.

## **Article 6 – The right to bargain collectively**

*With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:*

*1. to promote joint consultation between workers and employers;*

***No information requested. If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.***

As mentioned above, the Dutch government has actively supported efforts to strengthen social dialogue in the Caribbean Netherlands over the past few years, particularly in Bonaire and St Eustatius. This has helped promote consultation between workers and employers on both islands.

*2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;*

***Please provide information on specific measures taken during the pandemic to ensure the respect of the right to bargain collectively. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.***

In the Caribbean Netherlands, various laws and regulations provide that terms and conditions of employment can be set by means of collective agreements, in particular the Collective Agreements Act (Wet collectieve arbeidsovereenkomsten BES) and the Labour Dispute Act (Arbeidsgeschillenwet 1946 BES).

No specific measures have been taken during the pandemic to ensure that the right to bargain collectively is respected. The Dutch government has focused primarily on providing emergency relief and an income support package for workers and the self-employed to mitigate the impact of the pandemic on these small island economies, which are heavily dependent on tourism, a sector hard hit by the pandemic.

It would seem that both employers' and workers' organisations have focused less on collective bargaining during the pandemic. A recent scan of collective agreements shows that, out of 11 agreements that ended in 2020, seven still have to be extended or renewed. However, we do not have the data to be able to make any comparison with previous periods.

*3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;*

***No information requested. If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.***

Not applicable.

*and recognise:*

*4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.*

***a) Please provide information on specific measures taken during the pandemic to ensure the right to strike (Article 6§4). As regards minimum or essential services, please provide information on any measures introduced in connection with the COVID-19 crisis or during the pandemic to restrict the right of workers and employers to take industrial action.***

The Labour Dispute Act (Arbeidsgeschillenwet 1946 BES) lays down the rules regarding collective action in cases of conflicts of interest. No measures have been introduced in connection with the pandemic to restrict the right of workers and employers to take industrial action.

# **THE EUROPEAN SOCIAL CHARTER**

## **The Netherlands' Thirty-fourth Report**

Simplified report 2021

## **Report**

made by the Government of the Netherlands in accordance with Article C of the Revised European Social Charter, on the measures taken to give effect to the accepted provisions of the European Social Charter.

In accordance with Article C of the revised European Social Charter, copies of this report have been communicated to:

- Netherlands Trade Union Confederation FNV
- National Federation of Christian Trade Unions in the Netherlands CNV
- Confederation of Netherlands Industry and Employers (VNO-NCW) and MKB Nederland

## **Report in respect of the Kingdom in Europe**

Information on the follow-up given to the decisions of the European Committee Social Rights relating to the collective complaints:

1. ***European Federation of National Organisations Working with the Homeless (FEANTSA) v. the Netherlands, Complaint No. 86/2012, decision on the merits of 02/07/2014, violation of Articles 31§2, 19§4(c) and 30***

In response to the figures published by Statistics Netherlands (CBS) on the number of homeless people in the Netherlands in 2018 (39,000<sup>1</sup>), the Dutch government introduced additional measures to reduce these numbers. In 2020 central government launched a plan entitled 'A Home, a Future' and topped up the existing budget for shelters in the community by €200 million intended for preventing homelessness, transforming shelters and increasing assisted housing capacity. The results of these efforts are tracked in an extensive monitor, with municipalities providing figures on the number of homeless people, shelter capacity and various qualitative indicators, such as the conversion of dormitories in shelters to rooms for one or two people. The Ministry of the Interior and Kingdom Relations has also made funding available to house vulnerable groups, including the homeless.

During the COVID-19 pandemic, extra measures have been taken to provide safe shelter for homeless people. Institutional shelters have been adapted in line with the 1.5 metre distancing rule and made as accessible as possible. As a result, municipalities were able to accommodate hundreds of additional people during lockdown. Even after lockdown, many municipalities decided to continue organising shelter accommodation on a smaller scale.

According to the CBS, the number of homeless people decreased from 39,300 in 2018 to 32,000 in 2021,<sup>2</sup> indicating that the Dutch government's strategy is paying off. Over the next few years central government will continue to work with municipalities, accommodation providers and other stakeholders to ensure that this downward trend is sustained. It will be up to the next government to work out the details.

---

<sup>1</sup> <https://www.cbs.nl/nl-nl/cijfers/detail/84990NED?dl=4FC10.g>

<sup>2</sup> <https://www.cbs.nl/nl-nl/nieuws/2021/44/aandeel-jongere-daklozen-in-5-jaar-tijd-gehalveerd>.



**2. *University Women of Europe (UWE) v. the Netherlands, Complaint No. 134/2016, decision on the merits of 06/12/2019, violation of Articles 4§3 and 20.c, Recommendation CM/RecChS(2021)11***

In the report of 6 December 2019 on complaint number 134/2016 (*University Women of Europe (UWE) v. the Netherlands*), the European Committee of Social Rights of the Council of Europe (hereinafter: 'the Committee') concluded that the Netherlands fulfils its obligations under the European Social Charter in most respects. The Committee also concluded, however, that the Netherlands fell short on two points, and accordingly made the following recommendation to promote equal pay for men and women:

- pursue and finalise the adoption of measures to improve pay transparency taking into account parameters for establishing the equal value of the work performed, such as the nature of the work, training and working conditions;
- review and reinforce existing measures aimed at reducing and eliminating the gender pay gap and consider adopting any new measures that may bring about measurable progress within reasonable time in this respect;
- indicate the decisions and actions taken to comply with this recommendation in the next report on follow-up to decisions in collective complaints [31/10/2021].

**2.1 Pay transparency**

**Pursue and finalise the adoption of measures to improve pay transparency taking into account parameters for establishing the equal value of the work performed, such as the nature of the work, training and working conditions**

The Committee recommends introducing pay transparency measures in order to effectively identify pay inequality. Employers should be required to regularly provide information on pay, broken down by gender. This should include identifying work of equal value, taking into account the nature of the work, training and working conditions.

The Dutch government places great importance on further reducing the gender pay gap, and greater transparency can be beneficial in this respect. The effect of highlighting disparities can help raise awareness among companies, organisations and employees, and can also encourage discussion on the subject within organisations and in society at large. In March 2021 the European Commission presented a proposal for a Directive on improving pay transparency and strengthening enforcement mechanisms to protect the right to equal pay. This proposal contains various transparency measures,

such as workers' right to information and a reporting obligation for employers with at least 250 employees. The Dutch government's stance on this proposal is largely positive. Coordinated action at European level to promote equal pay and pay transparency can help enforce the fundamental right to equal pay throughout the EU and will also ensure a similar level of protection for workers across the EU. On December 6 2021 the Council reached a general approach on the proposal, which the Netherlands supported. The European Parliament still has to reach an agreement, after which the negotiations between the Parliament and the Council on this proposal will start.

Furthermore, a number of opposition parties submitted an amended private member's bill on equal pay to the House of Representatives on 5 October 2020. The bill includes an obligation for employers to report the scale of pay disparities between their male and female employees. In addition, companies that, as a rule, employ at least 250 people must obtain a certificate showing that they provide equal pay to men and women. The bill is currently being debated in the House of Representatives.

To prepare for the introduction of European legislation on pay transparency, a study is expected to start early in 2022 into how the value of work is currently determined, what parameters are used in the process and what best practices can be shared. The researchers will also analyse what methods are already applied in the Netherlands and other countries to promote equal pay, e.g. pay transparency. The findings of the study should provide an overview of the tools and methods that employers can use to meet the requirements of the Directive, with an emphasis on practices that can be scaled up and shared.

In addition, before the European legislation is fully drafted and implemented, efforts will be made, in consultation with the stakeholders involved such as employers' organisations and trade unions, to support employers and employees in developing and applying methods and tools to reduce pay disparities.

## ***2.2 Gender pay gap***

**Review and reinforce existing measures aimed at reducing and eliminating the gender pay gap and consider adopting any new measures that may bring about measurable progress within reasonable time in this respect**

The Committee's recommendation involves taking measures to further reduce the gender pay gap. In practice, there is still a pay disparity between men and women, and although it has narrowed in recent years, the pace of change is slow. Commissioned by the Dutch Ministry of Social Affairs and Employment, Statistics Netherlands (CBS) conducts a biennial survey (referred to as a monitor) on

the gender pay gap. The latest CBS monitor was published in December 2020 and contains information about pay disparities in 2018. It shows that the unadjusted pay disparity (pay gap) between men and women that year was 19% in the private sector and 8% in the public sector. Adjusting the data for various background characteristics known to influence pay, the gap in 2018 was 7% and 4%, respectively. Over the years since 2008, there has been a steady downward trend in both unadjusted and adjusted pay disparities.

Although the CBS surveys show that the gender pay gap has been narrowing since 2008, progress has been slow, so it is important to continue making substantial efforts to effect change on this front. The Netherlands is pursuing several measures to promote the principle of equal pay for men and women. In large part, the pay gap is a reflection of the different positions of men and women in the labour market, so it is important to strengthen women's position in the labour market. For instance, women in the Netherlands often work part-time, in many cases less than 24 hours a week, which means they earn less than men and have fewer career opportunities.<sup>3</sup> Various measures have been and continue to be taken to encourage women to voluntarily extend their working hours. As mentioned previously, this includes extending partner leave after the birth of a child,<sup>4</sup> investing in childcare, reducing the tax burden on income from work, applying the existing Flexible Working Arrangements Act and conducting awareness-raising campaigns. In addition, the Paid Parental Leave Act was passed by both houses of parliament in 2021 and will enter into force in August 2022.

Another factor that contributes to the different labour market position of men and women is the fact that men are more often employed in senior positions or in sectors where the salaries are higher. Fewer women are promoted to senior posts in either the public or the private sector. The Dutch government has therefore submitted a bill setting quotas for supervisory boards of listed companies, which must comprise at least one-third female and one-third male members. If this is not yet the case in a company, any new board appointment that does not contribute to gender balance will be null and void. Large companies will also have to set appropriate and ambitious gender balance targets for senior and upper management, be transparent about these targets and draw up a plan outlining how and when they will achieve them. This data will be published on a website the Social and Economic Council is currently developing. The bill was passed by both houses of parliament in 2021 and will enter into force on 1 January 2022.

---

<sup>3</sup> Government's response to the Interministerial Policy Review on part-time work (*IBO deeltijd*), p. 2.

<sup>4</sup> Since 1 January 2019, partner leave following the birth of a child in the Netherlands is equal to the partner's regular number of working hours for one week. As of 1 July 2020, partners are entitled to take supplementary partner leave equal to up to five times their regular number of working hours per week (for 70% of their daily pay, capped at 70% of the national maximum daily wage).

Efforts to promote equal pay for work of equal value are part of the government's 2018-2021 Action Plan on Labour Market Discrimination and various targeted measures have already been taken or are planned. On 21 September 2020, for instance, the Labour Foundation (the national consultative body of central organisations of employers and employees) published its digital guide to equal pay for men and women, in which it provides background information and guidance to help promote equal pay. It is intended for various target groups in the business community.<sup>5</sup> The Recruitment Code (*Sollicitatiecode*) of the Dutch Network for HR Professionals (NVP) also contributes to closing the gender pay gap and is designed to prevent – often unintentional – labour market discrimination and reduce pay disparities.<sup>6</sup> The purpose of this code is to set a standard for a transparent and fair recruitment and selection process. Furthermore, until the end of 2019, the Dutch government helped fund a WOMEN Inc. campaign to make women and employers more aware of the gender pay gap. This included the *#15procent minder* (#15 per cent less) campaign and the *Gelijk Loon Check* (Equal Pay Check), a simple tool that employers can use to determine whether there is a pay gap within their organisation. In 2021 WOMEN Inc. was again awarded a grant, which it will use over the next several years for various activities aimed at raising employers' awareness and providing them with tools to promote equal pay.

---

<sup>5</sup> <https://www.stvda.nl/nl/thema/arbeid-zorg/gelijke-beloning>.

<sup>6</sup> The current NVP Recruitment Code has been updated by the Recruitment Code Committee, in close collaboration with the Labour Foundation, and brought in line with recruitment and selection practices in 2020: <https://www.nvp-hrnetwerk.nl/sollicitatiecode>.

## **Report in respect of the Caribbean part of the Netherlands**

### **Article 5 – The right to organise**

*With a view to ensuring or promoting the freedom of workers and employers to form local, national or international organisations for the protection of their economic and social interests and to join those organisations, the Parties undertake that national law shall not be such as to impair, nor shall it be so applied as to impair, this freedom. The extent to which the guarantees provided for in this article shall apply to the police shall be determined by national laws or regulations. The principle governing the application to the members of the armed forces of these guarantees and the extent to which they shall apply to persons in this category shall equally be determined by national laws or regulations.*

***a) Please provide data on trade union membership prevalence across the country and across sectors of activity, as well as information on public or private sector activities in which workers are excluded from forming organisations for the protection of their economic and social interests or from joining such organisations. Also provide information on recent legal developments in these respects and measures taken to promote unionisation and membership (with specific reference to areas of activity with low level of unionisation, such as knowledge workers, agricultural and seasonal workers, domestic workers, catering industry and workers employed through service outsourcing, including cross border service contracts).***

There are no laws or regulations that restrict workers' freedom to unionise in the Caribbean Netherlands. Trade union membership is possible across all sectors. To give an example: Bonaire, with a population of around 22,000, has seven trade unions, each covering a separate sector. The Dutch government does not collect statistics on trade union membership and is therefore not in a position to provide current information.

There are no legal developments that influence unionisation and membership. Similarly, central government has taken no measures to promote unionisation or membership, leaving this primarily to the trade unions and social partners. Over the past few years the government has actively supported efforts to strengthen social dialogue in the Caribbean Netherlands, particularly in Bonaire and St Eustatius, and is prepared to support capacity-building initiatives for workers' and employers' organisations.

***b) Also provide information on measures taken or considered to proactively promote or ensure social dialogue, with participation of trade unions and workers organisations, in order to take stock***

***of the COVID-19 crisis and pandemic and their fallout, and with a view to preserving or, as the case may be, restoring the rights protected under the Charter after the crisis is over.***

Over the past few years the Dutch government has actively supported efforts to strengthen social dialogue in the Caribbean Netherlands, particularly in Bonaire and St Eustatius. With the support of the Ministry of Social Affairs and Employment, Bonaire's Central Dialogue, the consultative body of employers, unions, the Chamber of Commerce and local government, was given new impetus in 2018, providing a platform for social dialogue. This was followed by St Eustatius's Central Dialogue, which was launched in 2020. During the COVID-19 pandemic, these social dialogue institutions, in which trade unions are represented, were regularly consulted in different phases of the emergency response. They also proactively provided input and advice to the Dutch government. The crisis has therefore increased the visibility of these institutions and highlighted their relevance.

***c) If the previous conclusion was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.***

Not applicable.

#### **Article 6 – The right to bargain collectively**

*With a view to ensuring the effective exercise of the right to bargain collectively, the Parties undertake:*

*1. to promote joint consultation between workers and employers;*

***No information requested. If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.***

As mentioned above, the Dutch government has actively supported efforts to strengthen social dialogue in the Caribbean Netherlands over the past few years, particularly in Bonaire and St Eustatius. This has helped promote consultation between workers and employers on both islands.

*2. to promote, where necessary and appropriate, machinery for voluntary negotiations between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements;*

***Please provide information on specific measures taken during the pandemic to ensure the respect of the right to bargain collectively. Please make specific reference to the situation and arrangements in the sectors of activity hit worst by the crisis whether as a result of the impossibility to continue their activity or the need for a broad shift to distance or telework, or as a result of their frontline nature, such as health care, law enforcement, transport, food sector, essential retail and other essential services.***

In the Caribbean Netherlands, various laws and regulations provide that terms and conditions of employment can be set by means of collective agreements, in particular the Collective Agreements Act (Wet collectieve arbeidsovereenkomsten BES) and the Labour Dispute Act (Arbeidsgeschillenwet 1946 BES).

No specific measures have been taken during the pandemic to ensure that the right to bargain collectively is respected. The Dutch government has focused primarily on providing emergency relief and an income support package for workers and the self-employed to mitigate the impact of the pandemic on these small island economies, which are heavily dependent on tourism, a sector hard hit by the pandemic.

It would seem that both employers' and workers' organisations have focused less on collective bargaining during the pandemic. A recent scan of collective agreements shows that, out of 11 agreements that ended in 2020, seven still have to be extended or renewed. However, we do not have the data to be able to make any comparison with previous periods.

*3. to promote the establishment and use of appropriate machinery for conciliation and voluntary arbitration for the settlement of labour disputes;*

***No information requested. If the previous conclusion concerning the provision was one of non-conformity, please explain whether and how the problem was remedied. If the previous conclusion was deferred or conformity pending receipt of information, please reply to the questions raised.***

Not applicable.

*and recognise:*

*4. the right of workers and employers to collective action in cases of conflicts of interest, including the right to strike, subject to obligations that might arise out of collective agreements previously entered into.*

***a) Please provide information on specific measures taken during the pandemic to ensure the right to strike (Article 6§4). As regards minimum or essential services, please provide information on any measures introduced in connection with the COVID-19 crisis or during the pandemic to restrict the right of workers and employers to take industrial action.***

The Labour Dispute Act (Arbeidsgeschillenwet 1946 BES) lays down the rules regarding collective action in cases of conflicts of interest. No measures have been introduced in connection with the pandemic to restrict the right of workers and employers to take industrial action.