



March 2020

EUROPEAN SOCIAL CHARTER

European Committee of Social Rights

Conclusions 2019

NETHERLANDS 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 Curacao on 23 January 2004. The time limit for submitting the 7th report on the application of this treaty to the Council of Europe was 31 October 2018 and the Netherlands in respect of Curacao submitted it on 14 December 2018.

This report concerned the following “non-hard core” provisions of the Charter:

- right to just conditions of work (Article 2);
- right to safe and healthy working conditions (Article 3);
- right to a fair remuneration (Article 4);
- right to vocational guidance (Article 9);
- right to vocational training (Article 10);
- right of persons with disabilities to education, training and employment (Article 15).

The Netherlands in respect of Curacao have accepted Article 16.

The reference period was 1 January 2014 to 31 December 2017.

The present chapter on the Netherlands in respect of Curacao concerns 1 situation and contains:

– 1 conclusion of non-conformity: Article 16.

The next report from the Netherlands in respect of Curacao deals with the accepted provisions of the following articles belonging to the thematic group “Employment, training and equal opportunities”:

- the right to work (Article 1);
- the right to vocational guidance (Article 9);
- the right to vocational training (Article 10);
- the right of persons with disabilities to education, training and employment (Article 15);
- the right to engage in a gainful occupation in the territory of other States Parties (Article 18);
- the right of men and women to equal opportunities (Article 1 of the Additional Protocol).

The deadline for the report was 31 December 2019.

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

Article 16 - Right of the family to social, legal and economic protection

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

Legal protection of families

Rights and obligations, dispute settlement

The report does not provide any information on the legal framework ensuring equality of spouses in respect of their **rights and obligations** within the couple (reciprocal responsibility, ownership, administration and use of property, etc.) and in respect of children (parental authority, management of children's property), and of the legal arrangements available for the **settlement of disputes**, including **mediation**, and, in particular, conflicts relating to children (care and maintenance, custody and access to children).

The Committee reiterates its request for information on all these points, in the light of its case-law.

Domestic violence against women

The report does not provide any information on this issue. The Committee notes from a study published in 2012 (Domestic violence by and against men and women in Curaçao – A Caribbean study, by N. Ph. L. van Wijk), out of the reference period, that “one out of three people (25% of men, 38% of women) in Curaçao have experienced some form of domestic violence as adults, and the lifetime victimization rates are 39% of men, 51% of women. (...) Domestic violence against women on Curaçao is for the most part (ex-) partner violence”.

It furthermore notes that as from 2015, the Minister of Justice of Curaçao proclaimed the month of November as a month of awareness on relational violence and violence against children and that end 2017 the Ministry of Justice of Curaçao and the Public Prosecution (OM) organized a conference around this theme ("Beware – Be Aware!"). The Ministries of Justice, Education, Social Development and Public Health have furthermore drafted in 2018 (out of the reference period) a national plan to tackle this issue.

The Committee reiterates its request of information on the legal framework ensuring the protection of women against domestic violence and the outcomes of the policies implemented. It furthermore asks the next report to provide information on the content and implementation of the action plan, as well as on any further integrated policies aimed at ensuring prevention of domestic violence, protection of victims and prosecution of perpetrators, in the light of any relevant updated data.

Social and economic protection of families

Family counselling services

In response to the Committee question (Conclusions XX-4(2015)), the report indicates that the Family & Youth Sector of the Ministry of Social Development, Labour and Welfare (SDLW) offers parents/caretakers the Triple P (Positive Pedagogical Program) Program through information session about the importance of a positive parenting situation and their own behaviour. The project provides educators (= users) knowledge, skills, support and materials to create a positive parenting situation for the children (= beneficiaries). According to the report, from 2017 through September 2018 (out of the reference period), a total of 284 parents/educators from different organizations successfully completed this program and 20 facilitators were trained in the Triple P Seminar section. After their accreditation in December, they will then be authorized to provide seminars throughout the island, thus enabling larger groups of parents/educators to be reached and register for the 8-weeks

courses. The report also refers to the setting up of a Kingdom Taskforce for Children's Rights, which organized in 2017 a conference in Bonaire on positive parenting.

Childcare facilities

The report indicates that the government subsidizes foster care and homes for children in Curaçao, but does not provide the information requested on whether affordable, good quality childcare facilities are available (where quality is defined in terms of the number of children under the age of six covered, staff to child ratios, staff qualifications, suitability of the premises and the size of the financial contribution parents are asked to make). The Committee accordingly reiterates its request for information on all these points.

Family benefits

Equal access to family benefits

The Committee previously found that the situation was not in conformity with Article 16 of the 1961 Charter on the ground that foreign nationals were not entitled to family benefits. It furthermore asked whether stateless persons and refugees were treated equally with regard to family benefits. As the report does not provide any further element of information, the Committee reiterates its questions and maintains its finding of non-conformity on this issue.

Level of family benefits

In its previous conclusion (Conclusions XX-4(2015)), the Committee concluded that the situation was not in conformity with Article 16 of the 1961 Charter on the ground that the system of family benefits covered only families belonging to a certain category of the population.

As the report does not provide any further information on this issue, the Committee reiterates its finding of non-conformity.

Measures in favour of vulnerable families

The report refers to social assistance measures taken to reduce poverty, in particular in respect of vulnerable categories (persons with physical or mental disabilities, elders or persons with other limitations in the especially rural areas). The Committee notes however that these measures are not directly relevant to the scope of Article 16 of the 1961 Charter, which concerns specifically vulnerable families. It asks the next report to clarify what measures are taken to ensure the economic protection of various categories of vulnerable families, in particular single-parent families.

Housing for families

The report confirms that the government supplies to families in need or living on social welfare level, with water and electricity subsidies and housing subsidies, and states that more than 4000 families receive on a monthly basis one or more subsidies.

The report also refers to training programmes (on positive parenting, budgeting and living together in the neighbourhood) which have been set up for families who receive a subsidized home (in cooperation between *Fundashon Kas Popular*, a local social housing association and the SDLW), but does not provide the information requested on the provision of adequate housing for families and their protection against unlawful eviction. The Committee accordingly asks the next report to provide the requested information.

Participation of associations representing families

As the report does not provide any information on this point, the Committee reiterates its request for information on whether relevant associations representing families are consulted in the framing of family policies.

Conclusion

The Committee concludes that the situation in the Netherlands in respect of Curaçao is not in conformity with Article 16 of the 1961 Charter on the grounds that:

- the system of family benefits covers only families belonging to a certain category of the population;
- foreign nationals are not entitled to family benefits.