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Implementation of the International Covenant on Economic, Social and Cultural Rights

Consideration of reports submitted by States parties in accordance with article 16 of the International Covenant on Economic, Social and Cultural Rights

Replies by the Government of the Netherlands to the list of issues
(E/C.12/NLD/Q/4-5) to be taken up in connection with the consideration
of the combined fourth and fifth periodic report of the Netherlands
(E/C.12/NLD/4-5) and the fourth periodic report of the Netherlands
Antilles (E/C.12/NLD/4/Add.1)*, **

The Netherlands and Netherlands Antilles

[9 July 2010]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

** Annexes may be consulted in the files of the Secretariat.

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I. General framework within which the Covenant is implemented

Question 1. Please indicate the measures, including training and awareness-raising for law enforcement officers, undertaken to combat discrimination against migrants and persons of foreign origin in the fields of employment, housing, health care, education and culture.

The Netherlands

1. The Police Diversity Expertise Centre (LECD) develops anti-discrimination policy and helps all individual police forces develop policies on this issue. The LECD has a national network of anti-discrimination contacts in each police force for the sharing of knowledge and experience. The Ministry of the Interior and Kingdom Affairs supports the centre, funding 50 per cent of its total costs.
2. With the support of the LECD the police are working to improve their understanding of discrimination, jointly tackle discrimination and to raise awareness of and provide training on discrimination for police officers. The police are also making efforts to further professionalize national discrimination crime pattern analyses. As well as the national overview of all discrimination incidents known to the police, the regional summaries will also come under scrutiny from this year.
3. The police are also closely involved in the regional forum on discrimination, along with the public prosecutor responsible for discrimination cases and a representative of the anti-discrimination bureaus. This forum, which exists in every police region, meets regularly to discuss discrimination incidents known to the police and the anti-discrimination agencies and assess whether a criminal prosecution can be brought.
4. All forces are also training police officers who will focus particularly on discrimination cases, and raise awareness and knowledge among their fellow officers. General police training also currently includes 'multicultural skills', which focuses on the diversity in today's society and how best to deal with it. This subject also covers the Instructions on Discrimination issued by the Public Prosecution Service describing how discrimination should be tackled under the criminal law. Various police forces also organize special training days for all police staff that focus particularly on raising awareness of discrimination.
5. Discrimination also is covered by the Working Conditions Act, thus allowing discrimination in the workplace to be dealt with. The term previously used in the legislation was *ongerechtvaardigd onderscheid*, which can be literally translated as 'unjustified distinction'. Discrimination is currently (since July 2009) covered by the term 'psychosocial Workload'. This means that the Labour Inspectorate is able to perform inspections for all psychosocial risks separately or comprehensively. Several inspectors have received special training for this purpose.
6. There must be no discrimination in health care based on race, skin colour, origin, nationality or ethnicity. This is guaranteed under Dutch law, in various pieces of legislation including the Medical Treatment Contracts Act, the Health Insurance Act and the Individual Health Care Professions Act, which governs disciplinary proceedings. The Inspectorate ensures that care providers do their work in compliance with the law. The Client's Right of Complaint (Care Sector) Act gives patients the opportunity to submit a complaint to the institution's complaints committee.

The Netherlands Antilles

7. The amended National Ordinance on Compulsory Education came into force in 2007. Under this Ordinance, children between the ages of 4 and 18 who live in the territory of the Netherlands Antilles are required to be enrolled at a school, and to attend lessons there. There are no exceptions: this provision also applies to the children of foreign nationals and immigrants, regardless of whether they are legal or illegal residents. Primary education is free. Secondary school pupils may be eligible for a grant, provided they meet a number of conditions.

Question 2. Please indicate the ways in which the domestic legal system provides an effective remedy to persons whose rights under the Covenant have been violated.

8. Answer 2: see answer 3.

Question 3. While noting the State party's reply in its report (E/C.12/NLD/4-5, para. 11), please indicate whether, in accordance with the Committee's recommendations issued in 2006, there have been any recent developments to ensure that the provisions of the Covenant are given effect by domestic courts.

The Netherlands

(Answers 2 and 3 combined)

9. In principle, any claimant is entitled to invoke a provision of the Covenant in legal proceedings (e.g. an action for tort brought against the State before a civil court under article 6:162 of the Criminal Code), since under article 93 of the Constitution, treaty provisions that are binding on all persons by virtue of their contents are also binding under national law. Under article 94 of the Constitution, statutory regulations in force within the Kingdom are not applicable if they are in conflict with provisions of treaties that are binding on all persons.

10. It is indeed the case that provisions in the Covenant are not generally regarded by the national courts as 'binding on all persons'. In its report the Netherlands provided information on case law relating to the rights recognized in the Covenant (see annex 1). The Netherlands refers to the appendix for an up-to-date overview.

11. The Netherlands would however like to stress that the question of whether the State is bound by the Covenant should be distinguished from the question of whether provisions of the Covenant have direct effect within the State. The Netherlands is bound by international law to realise the rights set forth in the Covenant for persons within its jurisdiction. However, the question of whether a provision has direct effect is ultimately determined in individual cases by the Dutch courts.

12. The Government would also like to emphasize the fact that the influence of the Covenant's provisions is not limited to those cases where the national courts have declared a provision "binding on all persons". This is connected with the interpretation of national law in accordance with the Covenant. Interpretation in accordance with the Covenant means interpreting a national statutory provision in such a way that it becomes compliant with an international legal norm. It is important to note that the Dutch courts adhere to the "incorporation doctrine", whereby the interpretation of a provision of the Covenant given by the supervisory committee is "read into" the provision. This method is particularly important when national law is open to several interpretations, not all of which are compliant with the international legal norm. This might also involve the interpretation of a treaty provision which, according to the court, is not "binding on all persons", but is nevertheless not without significance. One example is the judgment handed down by the Supreme Court on 7 May 1993, determining that, though article 7 of the International Covenant on Economic, Social and Cultural Rights has no direct effect, "the guarantee of

equal pay for equal work in the Covenant is a goal that should be worked towards. To assume too readily that a reasonable and objective justification exists for a pay difference that is at odds with the principle of equal pay for equal work would not be consistent with this view.” The Supreme Court went on to base its assessment of the way the court of appeal had justified the unequal pay on this last consideration, ruling that it had been wrongful (see Besselink & Wessel, *De invloed van ontwikkelingen in de internationale rechtsorde op de doorwerking naar Nederlands constitutioneel recht*, Kluwer 2009, p. 57. This was one of the preliminary studies for the National Commission on the Review of the Constitution).

Question 4. Please indicate if the State party has adopted a national plan of action on human rights in accordance with the Vienna Declaration of 1993, and whether any steps have been taken to establish an effective national human rights institution in accordance with the Paris Principles of 1991.

The Netherlands

13. On 18 July 2008 the Government sent a letter to the House of Representatives announcing its desire to set up a national human rights institution in the Netherlands, in accordance with the Paris Principles, and setting out how it intended to do so (Parliamentary Papers II 2207/08, 31 200 VII, No. 75). In late 2008 the House adopted the Schinkelshoek motion which called for an investigation of whether the responsibilities of the national human rights institution should be assigned to existing institutions and organizations. On 10 July 2009 the Government refined its position in response to a debate in the House of Representatives, the motion as adopted and an analysis by several ministries and organizations of what was happening in terms of human rights in the Netherlands (Parliamentary Papers II 2008-09, 31 700 VII, No. 95).

14. This more detailed position proposed that the institution be integrated with the Equal Treatment Commission. A single new organization will therefore be set up for human rights and equal treatment, to be known as the Human Rights and Equal Treatment Commission. The statutory responsibilities of the Equal Treatment Commission will be transferred to the new organization, and human rights responsibilities will be added to its brief. The Commission’s most important tasks, besides assessing equal treatment cases, will therefore be to advise, report and act as a point of contact for all types of human rights issues.

15. On 1 April 2010 the cabinet decided to seek an advisory opinion from the Council of State on the Human Rights and Equal Treatment Commission Bill.

The Netherlands Antilles

16. The Government of the Netherlands Antilles bases its policies and measures on human rights principles and aims to implement the various human rights agreements to which it has committed itself. Apart from independent human rights organizations, including Amnesty International, Women’s Desk and SEDA, which operate on the various islands, there is no national human rights institution as such at government level in the Netherlands Antilles.

Question 5. Please provide updated information on where the process currently stands concerning withdrawal of the reservation to article 8, paragraph 1 (d) of the Covenant, with respect to the Netherlands Antilles (E/C.12/NLD/4/Add.1, para. 28).

The Netherlands Antilles

17. The process to obtain the necessary approval to withdraw the reservation has been started.

II. Issues relating to the general provisions of the Covenant (arts. 1–5)

Article 2, paragraph 2 – Non-discrimination

Question 6. Please indicate what steps have been taken as a response to the evaluation of the Equal Treatment Act (E/C.12/NLD/4-5, para. 130).

The Netherlands

18. The Dutch Government has decided, in general terms, that the wording of Dutch equal treatment legislation should be brought more into line with the wording of the European directives on equal treatment. The following specific intentions were announced in the Government's position (Parliamentary Papers 28 481 Nos. 5–7), in response to the evaluation of the Equal Treatment Act:

(a) The term "*onderscheid*" (literal translation: "distinction"), which is central to the Equal Treatment Act, will be replaced by the term "*discriminatie*" (literally "discrimination"), as used in the European equal treatment directives;

(b) The definitions of the concepts of "*direct onderscheid*" and "*indirect onderscheid*" will as far as possible be adapted to the European frame of reference;

(c) The exceptions for the protection of personal privacy included in the Equal Treatment Act will be worded in accordance with the European directives;

(d) In accordance with the request from the Equal Treatment Commission, a provision allowing exceptions in the interests of public health will be included in the Equal Treatment Act;

(e) The exception applying to institutions founded on religious or ideological principles will be retained; the wording will however be replaced by a text that is more in line with the wording of the Equal Treatment Framework Directive.

19. The matter referred to at b. was incorporated into a bill submitted to the House of Representatives on 30 December 2008 (Parliamentary Papers 31 832). The Dutch Government intends to settle the other matters in a new bill, which will also integrate the separate subjects of equal treatment legislation into the Equal Treatment Act.

Question 7. Please provide information on the effect of the efforts made to prevent the dissemination of racist propaganda described in the State party's report (E/C.12/NLD/4-5, part II.E).

The Netherlands

20. The Government will continue to focus on measures to tackle online discrimination. The Internet continues to grow in popularity, particularly among young people. Given the anonymity of the medium and the lack of opportunity for monitoring, the Internet can potentially function as a platform for discriminatory material that would attract more attention in the "offline world". The Dutch Government therefore attaches great value to having a hotline where discriminatory material on the Internet can be reported, and efforts made to remove it.

21. As in previous years, in 2010 the Dutch Government will provide a grant for the Internet Discrimination Hotline (MDI). The main task of the MDI is to handle reports of online discrimination and ensure that illegal material is removed from websites. The MDI receives an average of around 1200 reports of online discrimination each year. In cases

where the material is liable to prosecution, the MDI sends a request to the site administrator for its removal. The annual removal rate fluctuates around 90 per cent (86 per cent in 2009, 91 per cent in 2008 and 90 per cent in 2007).

22. Besides handling reports of discrimination, the MDI also provides information, courses, training and workshops for various organizations and groups, such as the moderators of interactive websites, enabling them to recognize discriminatory material on their site more easily and ensure it is removed quickly. According to the MDI, the moderation of websites is improving. In 2009 the reported material had already been removed in 9 per cent of cases, as opposed to 7 per cent in 2008.¹

23. Besides subsidising the hotline, the Government has also made arrangements with a number of government-subsidized websites whereby they will make every effort to remove discriminatory and hatemongering material within the hour.

Legislation

24. Prosecutions can be brought against discriminatory material on the Internet under the anti-discrimination provisions in the Criminal Code (arts. 137c to 137e). Under these articles, making insulting remarks about a group of people on the grounds of their race, religion or belief, sexual orientation or disability (art. 137c) is a criminal offence, as are incitement to hatred or violence against, or discrimination of a group of people on the grounds of their race, religion or belief, sexual orientation or disability (art. 137d) and the dissemination of material or objects containing material insulting to a group of people on the grounds of their race, religion or belief, sexual orientation or disability or constituting an incitement to hatred or violence against, or discrimination against a group of people on the grounds of their race, religion or belief, sexual orientation or disability (art. 137e).

25. The Netherlands has implemented the Council Framework Decision on combating certain forms and expressions of racism and xenophobia by means of criminal law (2008/913/JHA). In the near future, the Netherlands will also ratify the Additional Protocol to the Convention on cybercrime, concerning the criminalization of acts of a racist and xenophobic nature committed through computer systems adopted in Strasbourg on 28 January 2003 (legislation for the approval of the protocol is currently before the Senate). No legislation is needed to implement these two instruments.

Prosecution by the Public Prosecution Service

26. The majority of cases are brought by the MDI. Several dozen cases were brought over the period under review. The MDI and the Public Prosecution Service also hold regular talks, meeting three to four times a year. Finally, the MDI liaises with the prosecutor dealing with the case, providing tips for the local police on the detection of online crime.

Question 8. Please provide information on measures taken to combat discrimination relating to age, disability and sexual orientation in the labour market and health-care services.

The Netherlands

27. To prevent discrimination in the labour market the Government supports regularly conducted projects to tackle prejudice and make employers and employment agencies aware of equal treatment legislation. To make employers aware of the Equal Treatment in

¹ Source: MDI annual report 2009.

Employment (Age Discrimination) Act (WGBL) and make it clear what they may and may not say in advertising a job vacancy, the Ministry of Social Affairs and Employment commissioned centre of expertise *Expertisecentrum LEEFtijd* to conduct a project entitled “Vacancies for all ages”. Launched in 2005, the project has been repeated every year since. In collaboration with the Equal Treatment Commission, in 2006 the project produced an age checklist to which employers can refer if they have questions on age differentiation in job vacancies. The project also scanned job vacancies listed in national and regional newspapers and online to identify any unjustified age restrictions. Employers and agencies that had placed advertisements specifying age restrictions were sent a letter and an information package on the Equal Treatment in Employment (Age Discrimination) Act.

28. In 2008 the Ministry of Social Affairs and Employment commissioned anti-discrimination organisation Article 1 to conduct a special project on recruitment (*Werving en selectie zonder zorgen*), which was co-funded by the European Commission. One-day training was provided in June and September for officials working at the Employment Work and Benefits Agency (CWI then, now UWV Werkbedrijf: Public Employment Service) and the Dutch Association for Personnel Management & Organisation Development.

29. Besides information campaigns, other important factors include the infrastructure of the anti-discrimination bureaus and the Equal Treatment Commission, clear and accessible legislation, discussion of equal treatment at the social partners’ regular spring and autumn meetings and the development of instruments to help promote compliance with the Equal Treatment in Employment (Age Discrimination) Act. One such instrument is the age checklist referred to above.

Evaluation of the Equal Treatment in Employment (Age Discrimination) Act

30. The Equal Treatment in Employment (Age Discrimination) Act was evaluated in 2009. In general, we can conclude that, in view of the unique character of the grounds, assessment of age discrimination is no simple matter. The exception based on objective justification is complex, but it does work. The context can provide objective grounds for justification, but this does mean that discrimination often occurs, albeit not in a prohibited form. This is sometimes difficult for companies and individuals to understand. Nevertheless, the legislation is workable. In other words, its implementation does not present the Equal Treatment Commission with any serious problems. The evaluation showed that both support for and awareness of the legislation have increased since 2004, the year in which it entered into force. Awareness of the possibility of introducing exceptions has declined, however, and the negative image of the legislation appears intractable.

Evaluation of the Equal Treatment of Disabled and Chronically Ill People Act

31. The Equal Treatment of Disabled and Chronically Ill People Act was evaluated in 2009. We can conclude on the basis of the evaluation that it is a good instrument for improving individual legal protection for people with a disability or chronic illness. It is also seen as a step forward in fostering participation by the disabled and chronically ill. The evaluation also showed that the provision of information on the legislation requires improvement and that some misunderstanding exists concerning the scope of the Act. The evaluation study by the Verweij-Jonker Institute concluded that it is not possible to say to what extent the legislation has helped increase participation by the disabled and chronically ill. Instruments and measures like those laid down in the Work and Income (Capacity for Work) Act and other social insurance legislation appear to have a greater impact on the participation rate of the disabled and chronically ill, according to the Institute.

Workplace

32. Workplace discrimination was outlawed under the Working Conditions Act, under the concept of “*ongerechtvaardigd onderscheid*” (literally “unjustified distinction”). Discrimination is currently (since July 2009) covered by the term ‘psychosocial Workload’. The legislation obliges employers to take steps to reduce any psychosocial risks in the workplace, such as that caused by discrimination. Therefore also the Labour Inspectorate has a role in enforcing anti-discrimination legislation.

Health-care services

33. According to their professional association, the KNMG, medical professionals must take account of the ideological views and cultural background of their patients, and of any language barrier. Statutory safeguards also exist, including an obligation to accept patients and a ban on differentiated insurance premiums.

The Netherlands Antilles

34. Article 3 of the Constitution of the Netherlands Antilles states that everyone in the territory of the Netherlands Antilles has an equal claim to protection of their person and property. Although the Netherlands Antilles does not have a system of general health insurance, the policy of the island governments is to provide health care to those who are without means to pay for care, through a Pro-Pauperie card which entitles the holder to 100 per cent reimbursement of medical costs.

35. Furthermore, article 1, paragraph 3 of the National Ordinance on Collective Labour Agreements states as follows. “The clause whereby an employer is obliged not to employ persons of a certain race, religion or political conviction or members of a certain association is null and void.”

36. See also answer to question 30.

Article 3 – Equal rights of men and women

Question 9. Please indicate what concrete steps, including legislative, budgetary and administrative steps, the State party intends to take to address the disadvantaged position of women, in particular that of immigrant women, compared to men in relation to wages, access to the labour market and political representation.

The Netherlands

37. One of the key areas in which the Dutch Government would like to achieve better results regarding gender equality is the participation of women in decision-making processes. It has therefore set targets and puts a lot of effort into ensuring more women have a role in decision-making. The central government target is to increase the proportion of senior civil service posts held by women to 25 per cent by 2011. This target has almost been achieved (24.9 per cent, Dec. 2009). Another target for central government and autonomous employers in the public sector (including the provincial and local authorities and schools) is for women to account for 30 per cent of appointments to top positions. This percentage now stands at 25 per cent.

38. In order to reach the 2011 goal, the Dutch Government is using a range of tools, including networks, recruitment agencies and action programmes to interest, recruit, develop and commit female candidates. In May 2008, over 50 organizations in both the public and private sectors voluntarily signed a Charter entitled *Talent to the Top*. The Netherlands is very pleased that, alongside central government, so many organizations from

all areas of Dutch society have joined the Charter. By the end of 2009 over 100 organizations and businesses had signed up. In joining the Charter, organizations commit themselves to developing or continuing to pursue a clear strategy for the influx and promotion of women at management level. The signatories set targets for their own organization, review their progress and report it to a Monitoring Commission. The Monitoring Commission will report to the Minister of Economic Affairs each year and announce the results achieved by the signatories in the media, referring specifically to the names of the organizations and companies concerned.

39. The Government wants to be an exemplary employer. All government advisory bodies must now ensure that men and women are proportionately represented among their staff. Any new appointment must comply with this principle.

40. The Dutch Government still has a policy objective to ensure more women enter politics. This is being put into effect by collaborating with and seeking commitment from those who play an important role in recruiting candidates (the political parties) and other intermediaries (like the Queen's Commissioners in the case of mayors). There is also an emphasis on measures designed to increase the number of women available for and interested in political posts. Finally, terms and conditions such as schemes for maternity leave and child care are also a focus of attention. In terms of actual measures, the Minister of the Interior and Kingdom Affairs has during the present government's term in office focused particularly on ensuring more mayor's posts — a highly visible role in the local administration — are filled by women and members of ethnic minorities.

41. The conclusion that the 50 per cent target has not been achieved because various parties include fewer women in — and in a lower position on — their list of candidates would appear to imply that (except in the case of the Calvinist Party), such action is deliberate.

42. In terms of mayoral elections, we can conclude that the number of female applicants falls far below the number of male applicants. This is why activities focus on the "supply side".

43. Concerning the labour market participation the Government focuses on generic policy and specific needs, not on specific target groups. By doing so the labour market participation by women in the Netherlands has changed and risen substantially over the past few decades. While only 35 per cent of women aged between 15 and 65 worked in 1987, by 2007 this figure had risen to 53 per cent. This has accordingly reduced the gap between the labour market participation rates of men and women. Whereas in 1987 women's participation rate was only half that of men (35 per cent as opposed to 70 per cent), by 2007 it was over two-thirds (53 per cent versus 75 per cent). Statistics Netherlands, Working Population Survey; in SCP/CBS, Emancipation Monitor 2008. The current labour market participation rate for women puts Netherlands in the European top five. Only the Nordic countries and Switzerland have a higher rate (Eurostat, in: SCP, Nederland deeltijdland).

44. Labour market participation among women of non-Western ethnic origin (aged 15–64) has also risen sharply over a relatively short period, showing an increase of 8.0 percentage points between 2005 and the year to the end of 2009-III. Unemployment in this group fell by 7.2 percentage points (see figure 1.3.3).

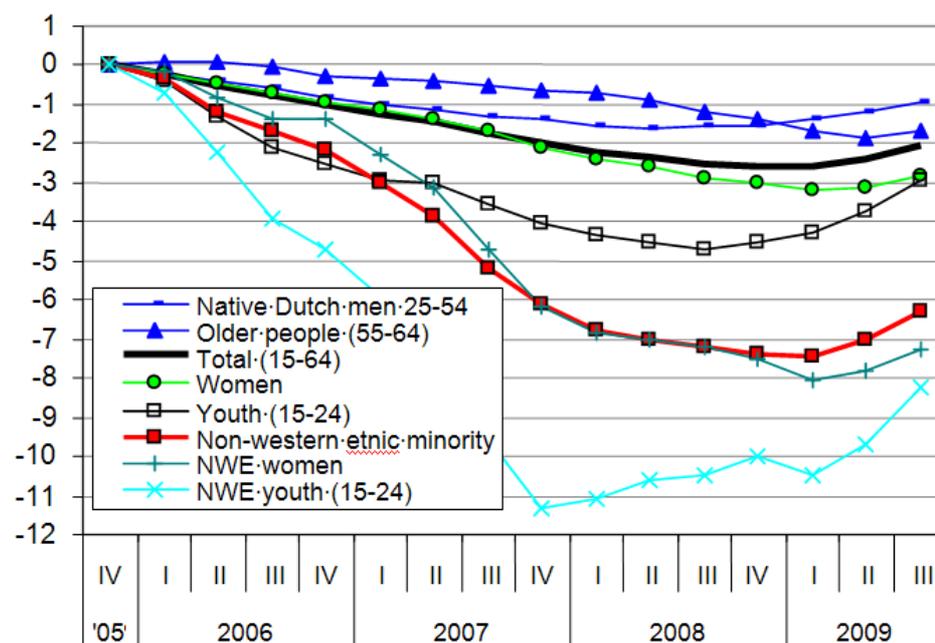
45. There are however considerable differences by country of origin. Women from a Surinamese, Antillean or Aruban background generally have a high labour market participation rate. This has recently increased even further among Surinamese women, from 53 per cent (2005) to 60 per cent (2009). There has also been a small rise among Antillean and Aruban women, from approx. 48 per cent (2005) to 50 per cent in 2009 (Statistics Netherlands, Working Population Survey 2009).

46. Labour market participation among women of Turkish and Moroccan origin has traditionally been low. They are however catching up now, with the participation rate of Turkish women rising from 33 per cent in 2005 to 41 per cent in 2009, and that of Moroccan women up from 33 per cent in 2005 to almost 39 per cent in 2009. This rise is accounted for above all by the second generation, where the difference in labour market participation between men and women is significantly smaller than among the first generation.

Figure 1.3.3

Progressive annual averages in unemployment rate, changes relative to 2005 average

(Percentage points)

**Measures to promote labour market participation by ethnic minority women:****1001 Kracht**

47. A large group of ethnic minority women play very little part in society. The nationwide Duizend en één Kracht ('Thousand and One Might') project, which was launched in 2007, is an attempt on the part of the Government to promote labour market participation by ethnic minority women through voluntary work. Voluntary work gives these women an opportunity for personal development and participation, and can also help them find paid work.

48. Some 25 local authorities and participating organizations have set up an efficient system offering guidance and after-care. Women have the opportunity to embark on a programme that suits their own needs and potential, and should enable them to move on to other programmes.

Blik op werk pilot projects: from voluntary to paid work

49. Many women who have taken part in the 1001 Kracht project have enjoyed being able to do voluntary work, but many are also keen to move on to paid work. In many local authority areas, however, collaboration between welfare, cultural integration and labour market re-integration services does not run smoothly, thus hampering the transition to paid

work. Coordination between the various implementing bodies also often requires improvement.

50. To maintain the upward spiral, the Ministry of Social Affairs and Employment is introducing four local authorities to a method designed to guide disadvantaged groups, and ethnic minority women in particular, into paid work. Pilot projects are currently running in Deventer, Enschede, Zeist and Venlo. The aim is to promote labour market participation among ethnic minority women and to develop a transferable method that reveals the problems they face in joining the labour market, and charts the route to paid work via voluntary work.

Ten labour market participation projects for ethnic minority women

51. From 2007 to 2009 the Ministry of Social Affairs and Employment funded ten local authority projects to mediate ethnic minority women into jobs and make their route into paid work more efficient. Around 150 women either found a job through the projects or started their own business. The project also produced insights that should help enhance the efficiency of employment services for ethnic minority women.

52. To identify and disseminate lessons from these projects, in late 2008 guidelines were produced containing an analysis of the problems and success factors. These guidelines formed the basis of a training course in which 23 local authorities participated. The problems associated with finding work for ethnic minority women were examined in each local authority area, in order to arrive at a more efficient, integrated strategy.

Policy on non-benefit claimants

53. Back in 2007 the Ministry of Social Affairs and Employment made agreements with the Union of Netherlands Municipalities (VNG) to help 25,000 non-benefit claimants into work or social participation. At the end of October 2009 the VNG agreed to raise the target to 35,000. The policy focuses on people who are difficult to place in the labour market, particularly ethnic minority women, and who therefore require extra attention from their local authority. A financial incentive has now been introduced. For every non-benefit claimant helped into work for at least six months, the rules will be relaxed on 12,000 euros' worth of the local authority's operating budget. The authority may also reward the people they have helped into work with a bonus of up to € 2,200. The idea is to support people who find it difficult to get a job on their own. The scheme should also help local authorities launch an active policy of helping these people.

54. The current economic crisis has prompted local authorities to focus particularly on new social assistance claimants. Central government continues to emphasise the fact that, with the prospect of an ageing workforce, it is important to keep motivating non-benefit claimants to take up paid work.

Responsibility of local authorities

55. It is the responsibility of local authorities to provide tailored services and targeted support for people who find it difficult to obtain work. A project like 1001 Kracht and the Blik op werk ("View to work") pilot projects (see above), the Government is supporting local authorities in their efforts to develop an integrated strategy and a good infrastructure to help ethnic minority women — who tend to find it difficult to get a job — into the labour market. Ultimately, it is up to local authorities to work out the details of their re-integration policy, drawing on a whole range of instruments, particularly integration programmes and language teaching. Where necessary, central government supports local authorities with temporary measures. One example is the youth unemployment action plan, which will also benefit a large number of ethnic minority youngsters (including girls).

Equal remuneration

56. Concerning the principle of equal remuneration, this is determined by law. Social partners have an important role. In order to underpin, inform and to enhance compliance of employers with the principle of equal treatment employers and social partners, developed the following instruments:

- Information on equal remuneration that is also incorporated in the *Scholingsmand gelijke behandeling* (set of information) for Workers councils
- Information on equal remuneration through brochures
- Websites that include tests for equal pay. www.gelijkloon.nl en www.loonwijzer.nl
- A quick scan equal pay
- The management tool equal pay
- A manual gender-neutral job-evaluation-system
- Quick scan equal pay by the Equal Treatment Body
- Equal Pay Day

57. The Government's goal is to achieve a gross labour market participation rate of 80 per cent by 2016. Also the Government stimulates the importance of the principles of equal remuneration. These goals do not include any specific target for ethnic minority women, the Government's policy is to focus on specific needs, for example to help 200,000 difficult-to-place individuals into work. The labour market participation rate of non-Western ethnic minority women rose in 2008 relative to the previous year, from 42.6 per cent to 46.7 per cent.

The Netherlands Antilles

58. According to article 7 of the Constitution of the Netherlands Antilles, men and women are equally eligible for election or appointment to any public office and have the right to vote, provided that they are over the age of 18, are resident in the Netherlands Antilles on the thirtieth day prior to the date of nomination and possess Dutch nationality.

59. Although there is no record of gender-related incidents being brought before the court, the Government of the Netherlands Antilles deemed it important to revise Book 7 of the Civil Code of the Netherlands Antilles with regard to gender protection. The new draft of Book 7 includes provisions on the equal treatment of men and women with regard to employment (draft article 7:646). The revision process is expected to be completed before the dismantling of the Netherlands Antilles in October 2010.

III. Issues relating to specific provisions of the Covenant (arts. 6–15)

Article 6 – Right to work

Question 10. Please describe how the financial crisis has affected unemployment, both in the Netherlands and the Netherlands Antilles. Please provide disaggregated (by gender, age and ethnicity) and updated information on the rate of unemployment and underemployment in the State party.

The Netherlands

60. Compared to other countries, unemployment in the Netherlands has been low for many years. Even in the present economic crisis, Dutch figures show a relatively low unemployment rate. A summary of economic and labour market trends in the Netherlands is given below.

1. Real GDP growth and employment and unemployment rates* by gender

| | 2009 | 2007 | 2005 |
|--|-------------|-------------|-------------|
| Real GDP growth (as % change on previous year) | -4.0 | +3.6 | +2.0 |
| Unemployment rate (national definition) | | | |
| Total | 4.9 | 4.5 | 6.5 |
| Male | 4.5 | 3.6 | 5.6 |
| Female | 5.3 | 5.8 | 7.8 |
| Employment rate (national definition) | | | |
| Total | 67.2 | 66.2 | 63.2 |
| Male | 74.7 | 75.1 | 73.3 |
| Female | 59.7 | 57.2 | 53.0 |

Source: Netherlands Bureau for Statistics (Labour Force Survey).

* The national definition of the labour force excludes persons working in, or seeking, a job for fewer than 12 hours a week.

61. GDP in the Netherlands fell by 4.0 per cent in 2009. This was the biggest decrease in GDP ever measured over one year by Statistics Netherlands. The last record was in 1931, when GDP fell by 3.6 per cent. The tide turned in the fourth quarter of 2009, however, when the fall relative to the same quarter in 2008 (2.2 per cent) was much smaller than in the first three quarters of 2009.

2. The impact of the crisis on different sectors of the economy

Employment by economic activity in the Netherlands, 2008–2009 (millions of paid working hours)

| Economic activity | 2008-I | 2008-II | 2008-III | 2008-IV | 2009-I | 2009-II | 2009-III | 2009-IV | Change 2008- IV/2009-IV | % Change 2008- IV/2009-IV |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|-------------------------------|---------------------------------|
| Total | 2 539 | 2 587 | 2 682 | 2 592 | 2 548 | 2 523 | 2 634 | 2 581 | -11 | -0.4% |
| Temporary employment agencies | 141 | 154 | 158 | 153 | 129 | 132 | 138 | 135 | -18 | -11.9% |
| Manufacturing except construction | 345 | 346 | 360 | 349 | 343 | 332 | 345 | 335 | -14 | -4.0% |
| Transport, storage, communications | 175 | 177 | 181 | 172 | 173 | 169 | 174 | 167 | -5 | -2.9% |
| Construction & building engineering services | 155 | 159 | 165 | 157 | 156 | 155 | 161 | 154 | -3 | -1.9% |
| Banking and insurance | 104 | 105 | 108 | 104 | 104 | 102 | 106 | 103 | -1 | -1.0% |
| Other business services | 334 | 340 | 358 | 343 | 345 | 333 | 349 | 340 | -3 | -0.8% |

| <i>Economic activity</i> | <i>2008-I</i> | <i>2008-II</i> | <i>2008-III</i> | <i>2008-IV</i> | <i>2009-I</i> | <i>2009-II</i> | <i>2009-III</i> | <i>2009-IV</i> | <i>Change 2008- IV/2009-IV</i> | <i>% Change 2008- IV/2009-IV</i> |
|--|---------------|----------------|-----------------|----------------|---------------|----------------|-----------------|----------------|--|--|
| Agriculture, forestry and fisheries | 36 | 39 | 44 | 39 | 35 | 38 | 44 | 39 | 0 | 0.0% |
| Mining and extraction | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 3 | 0 | 0.0% |
| Trade and repair of consumer goods | 403 | 409 | 425 | 409 | 407 | 402 | 420 | 409 | 0 | 0.0% |
| Hotels, restaurants and cafés | 65 | 68 | 71 | 67 | 64 | 66 | 70 | 67 | 0 | 0.0% |
| Cultural and other non-commercial services | 101 | 103 | 106 | 105 | 103 | 103 | 106 | 107 | 2 | 1.9% |
| Subsidized education | 145 | 146 | 147 | 147 | 146 | 145 | 147 | 150 | 3 | 2.0% |
| Government | 186 | 188 | 191 | 187 | 188 | 188 | 195 | 196 | 9 | 4.8% |
| Health care and social welfare | 334 | 337 | 352 | 344 | 339 | 342 | 361 | 362 | 18 | 5.2% |
| Public utilities | 13 | 13 | 13 | 13 | 14 | 13 | 14 | 14 | 1 | 7.7% |

Source: Statistics Netherlands.

62. Three sectors that have been hit particularly hard in the Netherlands are: (a) temporary employment agencies; (b) manufacturing, except construction and (c) transport, storage and communications. Company turnover in these sectors fell between 2008-IV and 2009-IV by 13.2, 6.8 and 11.4 per cent respectively.

3. Impact of the crisis on employment in different groups of workers

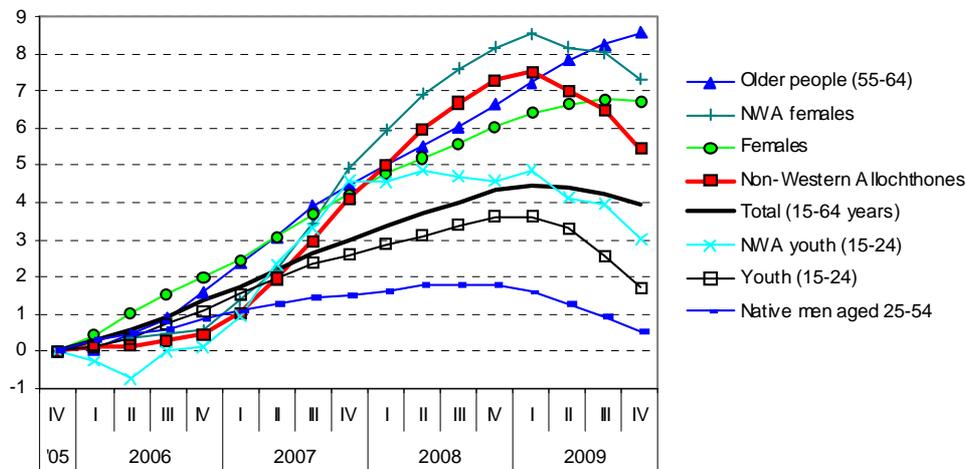
Employed persons by type of employment, 2008–2009 (x 1000)

| | <i>2008-I</i> | <i>2008-II</i> | <i>2008-III</i> | <i>2008-IV</i> | <i>2009-I</i> | <i>2009-II</i> | <i>2009-III</i> | <i>2009-IV</i> | <i>Change 2008- IV/2009-IV</i> | <i>% Change 2008- IV/2009-IV</i> |
|---|---------------|----------------|-----------------|----------------|---------------|----------------|-----------------|----------------|--|--|
| Total employed (national definition) | 7 318 | 7 403 | 7 483 | 7 436 | 7 385 | 7 388 | 7 403 | 7 317 | -119 | -1.6% |
| Self-employed | 976 | 991 | 993 | 966 | 966 | 957 | 952 | 949 | -17 | -1.8% |
| Employees | 6 341 | 6 412 | 6 490 | 6 470 | 6 419 | 6 431 | 6 451 | 6 368 | -102 | -1.6% |
| Regular | 5 796 | 5 828 | 5 862 | 5 918 | 5 903 | 5 893 | 5 866 | 5 858 | -60 | -1.0% |
| Flexible | 545 | 584 | 627 | 553 | 516 | 538 | 585 | 510 | -43 | -7.8% |
| Temporary agency workers | 194 | 203 | 199 | 190 | 162 | 158 | 160 | 143 | -47 | -24.7% |
| Stand-by workers | 116 | 130 | 155 | 124 | 121 | 132 | 163 | 127 | 3 | 2.4% |
| Other flexible workers | 235 | 251 | 273 | 238 | 233 | 248 | 262 | 240 | 2 | 0.8% |

Source: Statistics Netherlands.

63. Employment fell between 2008-IV and 2009-IV by 119,000 (-1.6 per cent). The decline was greatest among temporary agency workers (-24.7 per cent) and the self-employed (-1.8 per cent).

Annual employment rate averages (national definition*), change since 2005 in percentage points



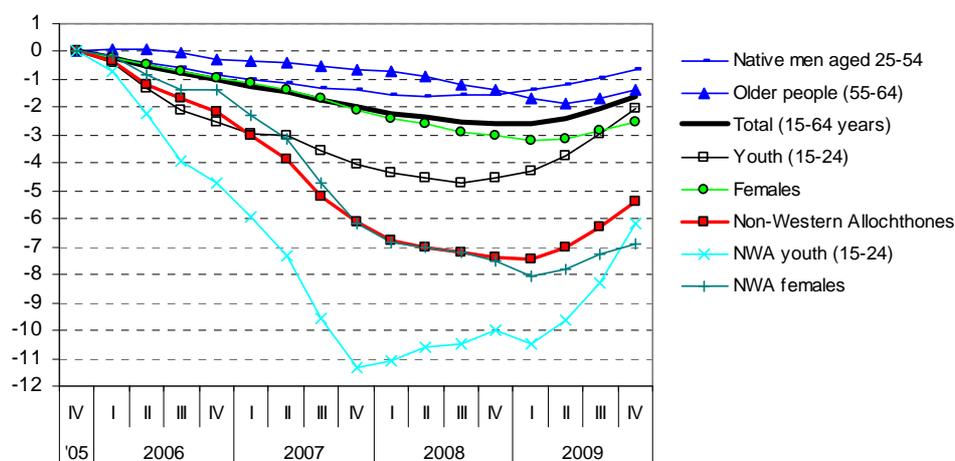
* The national definition of the labour force excludes persons working in, or seeking, a job for fewer than 12 hours a week.

64. The labour shortage in recent years (2005–2008) gave target groups with a traditionally weaker position on the labour market more opportunity to find work. This helped reduce the gap between their employment rate and the average employment rate (total aged 15–64). The abolition of early retirement schemes also played an important role in the case of older people (aged 55–64).

65. The average employment rate fell for the first time since 2005 in the year to 2009-II. The fall was greatest among young people and non-Western ethnic minorities. The employment rate among native Dutch men aged 25–54 had already started to fall in the year to 2009-I.

66. Comparing the annual average for 2009 with 2008, the employment rate fell by 0.3 per cent (from 67.5 per cent to 67.2 per cent). The biggest decrease was among young people (-1.9 per cent), non-Western ethnic minorities (-1.8 per cent) and native Dutch men aged 25–54 (-1.2 per cent). The employment rate of older people (+2 per cent) and total women (+0.7 per cent) continued to rise. The employment rate among non-Western ethnic minority women fell by 0.8 per cent.

Annual unemployment rate averages (national definition*), change since 2005 in percentage points



* The national definition of the labour force excludes persons working in, or seeking, a job of less than 12 hours a week.

67. The average unemployment rate fell from 6.5 per cent in 2005 to 3.9 per cent in the year to 2008-IV. Starting in the year to 2009-II, the unemployment rate rose for the first time since 2005. The unemployment rate among non-Western ethnic minority youth (aged 15–24) had already begun to increase in the year to 2008-I, followed three quarters later by total youth (15–24). The unemployment rate among native Dutch men aged 25–54 started to rise in 2009-I, followed one quarter later by non-Western ethnic minorities (and non-Western ethnic minority women).

68. The trend in the unemployment rate among older people (aged 55–64) was more favourable than the average (total aged 15–64) until 2008-III, after which the decrease was greater than the average. The unemployment rate among older people increased for the first time since 2005 in the year to 2009-III.

69. Comparing the annual average for 2009 with 2008, the unemployment rate increased by 1 per cent (from 3.9 per cent to 4.9 per cent). The biggest increase was among young people (+2.5 per cent), especially non-Western ethnic minority youth (+3.8 per cent), and among non-Western ethnic minorities in general (+2 per cent). The rise in the unemployment rate was smallest among older people (+0.1 per cent).

70. The Netherlands has no official figures on underemployment. We do however know how many unemployed people in the Netherlands (according to the national definition) work fewer than 12 hours a week. Studies have also revealed the number of working people (according to the national definition) receiving unemployment benefit. This gives us the following figures. Those who work fewer than 12 hours per week and who are actively seeking (and available for) paid work for 12 or more hours per week are registered by Statistics Netherlands as unemployed. In 2008, this applied to 52,000 persons aged 20 to 64. Part-timers with jobs of 12 or more hours who are looking for more hours are not registered as unemployed (they are considered employed). The benefits agency (UWV) also records employed persons who receive unemployment benefit as underemployed. In 2008 this applied to 51,000 persons aged 20 to 64.

The Netherlands Antilles

71. The economy of the Netherlands Antilles was adversely affected by the global economic downturn. Leading indicators currently show that economic growth decelerated to 1 per cent in 2009. This was due solely to a decrease in domestic demand, with private demand growing noticeably more slowly, and stocks being kept low. The slowdown in economic activity has affected the labour market, and the unemployment rate rose from 9.7 per cent in 2008 to 10 per cent in 2009. Since a rise in production does not have an immediate impact on employment, the unemployment rate will probably continue to rise after the economy has begun to pick up.

Table 1

Macroeconomic effects, Netherlands Antilles

| | 2003 | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 |
|-----------------|-------|-------|-------|-------|-------|-------|-------|
| GDP (mill. ANG) | 5 425 | 5 576 | 5 843 | 6 141 | 6 536 | 7 077 | 7 148 |
| Real growth GDP | 1.7% | 1.2% | 1.1% | 2.3% | 3.8% | 2.0% | 1.0% |
| Inflation | 1.6% | 1.6% | 3.7% | 2.8% | 2.8% | 6.3% | 2.0% |
| Unemployment | 15.3% | 15.1% | 16.2% | 13.2% | 11.5% | 9.7% | 10.0% |

Source: Central Bank of the Netherlands Antilles (2009).

Unemployment (participation of women in the Antillean labour market)

72. Labour Force Sample Surveys held between 2002 and 2008 showed an overall decrease in the unemployment rate among the working population of Curaçao. However, unemployment in the female workforce is still significantly higher than in the male workforce and women's labour market participation rate lags behind.

Table 2
Employment trends, Curaçao, by gender

| | 2002 | | 2003 | | 2004 | | 2005 | | 2006 | | 2007 | | 2008 | |
|----------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| | Male | Female |
| 1. Workers | 25 206 | 23 850 | 26 606 | 25 530 | 25 283 | 26 192 | 25 316 | 26 027 | 26 002 | 26 049 | 26 478 | 27 301 | 28 358 | 28 177 |
| 2. Jobseekers | 4 120 | 4 936 | 4 002 | 5 272 | 4 498 | 5 362 | 5 227 | 6 165 | 3 323 | 5 608 | 2 913 | 4 433 | 2 484 | 4 002 |
| 3. (1+2): Working population | 29 326 | 28 786 | 30 608 | 30 802 | 29 781 | 31 554 | 30 543 | 32 192 | 29 325 | 31 657 | 29 391 | 31 734 | 30 841 | 32 179 |
| 4. Total population | 59 206 | 68 689 | 59 664 | 70 527 | 60 445 | 71 762 | 61 871 | 73 603 | 61 658 | 73 591 | 61 742 | 73 771 | 63 090 | 75 550 |
| 5. (3:4): Participation rate (%) | 49.5 | 41.9 | 51.3 | 43.7 | 49.3 | 44 | 49.4 | 43.7 | 48 | 43 | 48 | 43 | 49 | 43 |
| 6. (2:3): Unemployment (%) | 14.0 | 14.1 | 13.1 | 17.1 | 15.1 | 17.0 | 17.1 | 19.2 | 11 | 18 | 10 | 14 | 8 | 12 |

Source: Central Bureau of Statistics of the Netherlands Antilles (CBS).

Table 3
Employment trends, Curaçao, by age

| | <i>Oct. 07</i> | <i>Oct. 08</i> | <i>Mutations</i> | <i>% mutations</i> |
|---|----------------|----------------|------------------|--------------------|
| <i>Age 15–24</i> | | | | |
| 1. Workers | 3 937 | 4 023 | 86 | 2.2 |
| 2. Jobseekers | 1 299 | 1 437 | 138 | 10.6 |
| 3. (1+2): Working population | 5 236 | 5 460 | 224 | 4.3 |
| 4. Economically inactive population | 12 792 | 12 619 | -173 | -1.4 |
| 5. Population 15–24 | 18 027 | 18 080 | 53 | 0.3 |
| 6. (3:5): Participation rate (%) | 29.0 | 30.2 | 1.2 | 4.0 |
| 7. Unemployment rate (%) | 24.8 | 26.3 | 1.5 | |
| 8. (1:5): Workers/total pop. (%) | 21.8 | 22.3 | 0.4 | |
| <i>Age 25–34</i> | | | | |
| 1. Workers | 10 484 | 11 026 | 542 | 5.2 |
| 2. Jobseekers | 2 038 | 1 534 | -504 | -24.7 |
| 3. (1+2): Working population | 12 522 | 12 560 | 38 | 0.3 |
| 4. Economically inactive population | 2 801 | 2 811 | 10 | 0.4 |
| 5. Population 25–34 | 15 323 | 15 371 | 48 | 0.3 |
| 6. (3:5): Participation rate (%) | 81.7 | 81.7 | 0.0 | 0.0 |
| 7. Unemployment rate (%) | 16.3 | 12.2 | -4.1 | |
| 8. (1:5): Workers/total pop. (%) | 68.4 | 71.7 | | |
| <i>Age 35–44</i> | | | | |
| 1. Workers | 16 590 | 16 486 | -104 | -0.6 |
| 2. Jobseekers | 2 144 | 1 953 | -191 | -8.9 |
| 3. (1+2): Working population | 18 734 | 18 439 | -295 | -1.6 |
| 4. Economically inactive population | 2 758 | 2 961 | 203 | 7.4 |
| 5. Population 35–44 | 21 492 | 21 400 | -92 | -0.4 |
| 6. (3:5): Participation rate (%) | 87.2 | 86.2 | -1.0 | -1.2 |
| 7. Unemployment (%) | 11.4 | 10.6 | -0.9 | |
| 8. (1:5): Workers/total pop. (%) | 77.2 | 77.0 | | |
| <i>Age 45–54</i> | | | | |
| 1. Workers | 14 992 | 16 557 | 1 565 | 10.4 |
| 2. Jobseekers | 1 656 | 1 162 | -494 | -29.8 |
| 3. (1+2): Working population | 16 648 | 17 719 | 1 071 | 6.4 |
| 4. Economically inactive population | 4 537 | 4 112 | -425 | -9.4 |
| 5. Population 45–54 | 21 185 | 21 831 | 646 | 3.0 |
| 6. (3:5): Participation rate (%) | 78.6 | 81.2 | 2.6 | 3.3 |
| 7. Unemployment (%) | 9.9 | 6.6 | -3.4 | |
| 8. (1:5): Workers/total pop. (%) | 70.8 | 75.8 | | |

| | <i>Oct. 07</i> | <i>Oct. 08</i> | <i>Mutations</i> | <i>% mutations</i> |
|---|----------------|----------------|------------------|--------------------|
| <i>Age 55 and over</i> | | | | |
| 1. Workers | 8 046 | 8 443 | 397 | 4.9 |
| 2. Jobseekers | 522 | 399 | -123 | -23.6 |
| 3. (1+2): Working population | 8 568 | 8 842 | 274 | 3.2 |
| 4. Economically inactive population | 22 445 | 23 087 | 642 | 2.9 |
| 5. Population 55 plus | 31 014 | 31 929 | 915 | 3.0 |
| 6. (3:5): Participation rate (%) | 27.6 | 27.7 | 0.1 | 0.2 |
| 7. Unemployment rate (%) | 6.1 | 4.5 | -1.6 | |
| 8. (1:5): Workers/total pop. (%) | 25.9 | 26.4 | | |

73. The unemployment rate among the working population on Bonaire follows the trend discernible on Curaçao. A noticeable difference is that on Bonaire the number of female jobseekers has decreased. An increase in the working population over the past few years has resulted in a considerable drop in the unemployment rate.

Table 4
Employment trends, Bonaire, by gender

| | <i>2004</i> | | <i>2006</i> | | <i>2008</i> | |
|----------------------------------|-------------|---------------|-------------|---------------|-------------|---------------|
| | <i>Male</i> | <i>Female</i> | <i>Male</i> | <i>Female</i> | <i>Male</i> | <i>Female</i> |
| 1. Workers | 2 266 | 2 395 | 2 941 | 2 706 | 3 510 | 2 898 |
| 2. Jobseekers | 207 | 253 | 205 | 276 | 231 | 201 |
| 3. (1+2): Working population | 2 473 | 2 648 | 3 146 | 2 982 | 3 741 | 3 099 |
| 4. Total population | 4 999 | 5 437 | 5 734 | 6 066 | 6 273 | 6 357 |
| 5. (3:4): Participation rate (%) | 50 | 49 | 55 | 49 | 60 | 49 |
| 6. (2:3): Unemployment (%) | 8 | 10 | 7 | 9 | 6 | 7 |

Source: CBS.

Table 4
Employment trends, Bonaire, by age

| | <i>Oct. 06</i> | <i>Oct. 08</i> | <i>Mutations 2008–2006</i> | <i>% mutation</i> |
|---|----------------|----------------|--------------------------------|-------------------|
| <i>Age 15–24</i> | | | | |
| 1. Workers | 594 | 785 | 191 | 32.2 |
| 2. Jobseekers | 153 | 102 | -51 | -33.3 |
| 3. (1+2): Working population | 747 | 887 | 140 | 18.7 |
| 4. Economically inactive population | 775 | 685 | -90 | -11.6 |
| 5. Population 15–24 | 1 522 | 1 572 | 50 | 3.3 |
| 6. (3:5): Participation rate (%) | 49.1 | 56.4 | 7.3 | |
| 7. Unemployment rate (%) | 20.5 | 11.5 | -9.0 | |
| 8. (1:5): Workers/total pop. (%) | 39.0 | 49.9 | 10.9 | |

| | <i>Oct. 06</i> | <i>Oct. 08</i> | <i>Mutations 2008–2006</i> | <i>% mutation</i> |
|---|----------------|----------------|--------------------------------|-------------------|
| <i>Age 25–44</i> | | | | |
| 1. Workers | 2 807 | 3 175 | 368 | 13.1 |
| 2. Jobseekers | 210 | 204 | -6 | -2.9 |
| 3. (1+2): Working population | 3 017 | 3 379 | 362 | 12.0 |
| 4. Economically inactive population | 343 | 341 | -2 | -0.6 |
| 5. Population 25–44 | 3 360 | 3 720 | 360 | 10.7 |
| 6. (3:5): Participation rate (%) | 89.8 | 90.8 | 1.0 | |
| 7. Unemployment rate (%) | 7.0 | 6.0 | -0.9 | |
| 8. (1:5): Workers/total pop. (%) | 83.5 | 85.3 | 1.8 | |
| <i>Age 45 and over</i> | | | | |
| 1. Workers | 2 246 | 2 448 | 202 | 9.0 |
| 2. Jobseekers | 117 | 126 | 9 | 7.7 |
| 3. (1+2): Working population | 2 363 | 2 574 | 211 | 8.9 |
| 4. Economically inactive population | 1 760 | 1 903 | 143 | 8.1 |
| 5. Population 45 plus | 4 123 | 4 477 | 354 | 8.6 |
| 6. (3:5): Participation rate (%) | 57.3 | 57.5 | 0.2 | |
| 7. Unemployment rate (%) | 5.0 | 4.9 | -0.1 | |
| 8. (1:5): Workers/total pop. (%) | 54.5 | 54.7 | 0.2 | |

Source: CBS.

74. The working population on Saint Maarten increased in the 2003–2007 period. However this increase was larger in the male working population. Despite a decrease in both male and female jobseekers, the working population increased.

Table 5
Employment trends, Saint Maarten, by gender

| | 2003 | | 2005 | | 2007 | |
|----------------------------------|-------------|---------------|-------------|---------------|-------------|---------------|
| | <i>Male</i> | <i>Female</i> | <i>Male</i> | <i>Female</i> | <i>Male</i> | <i>Female</i> |
| 1. Workers | 8 780 | 7 419 | 9 714 | 8 359 | 11 310 | 9 411 |
| 2. Jobseekers | 1 545 | 1 888 | 1 194 | 1 604 | 935 | 1 510 |
| 3. (1+2): Working population | 10 325 | 9 307 | 10 980 | 9 963 | 12 245 | 10 921 |
| 4. Total population | 16 203 | 17 114 | 17 303 | 18 607 | 18 834 | 20 177 |
| 5. (3:4): Participation rate (%) | 64 | 54 | 63 | 54 | 65 | 54 |
| 6. (2:3): Unemployment (%) | 15 | 20 | 11 | 16 | 8 | 14 |

Table 5
Employment trends, Saint Maarten, by age

| | <i>Oct. 2005</i> | <i>March 2007</i> | <i>Mutation</i> | <i>% mutation</i> |
|------------------------|------------------|-------------------|-----------------|-------------------|
| <i>Age 15–24</i> | | | | |
| 1. Employed population | 1 401 | 1 610 | 209 | 14.9 |

| | <i>Oct. 2005</i> | <i>March 2007</i> | <i>Mutation</i> | <i>% mutation</i> |
|--|------------------|-------------------|-----------------|-------------------|
| 2. Unemployed population | 613 | 567 | -46 | -7.5 |
| 3. (1+2): Labour force | 2 014 | 2 177 | 163 | 8.1 |
| 4. Economically inactive population | 2 210 | 2 510 | 300 | 13.6 |
| 5. Population 15–24 | 4 224 | 4 687 | 463 | 11 |
| 6. (3:5): Participation rate (%) | 47.7 | 46.4 | -1.2 | |
| 7. (2:3): Unemployment rate (%) | 30.4 | 26 | -4.4 | |
| 8. (1:5): Employed/total pop. (%) | 33.2 | 34.4 | 1.2 | |
| <i>Age 25–44</i> | | | | |
| 1. Employed population | 10 934 | 12 081 | 1 147 | 10.5 |
| 2. Unemployed population | 1 613 | 1 246 | -367 | -22.8 |
| 3. (1+2): Labour force | 12 547 | 13 327 | 780 | 6.2 |
| 4. Economically inactive population | 1 403 | 1 478 | 75 | 5.3 |
| 5. Population 25–44 | 13 950 | 14 805 | 855 | 6.1 |
| 6. (3:5): Participation rate (%) | 89.9 | 90 | 0.1 | |
| 7. (2:3): Unemployment rate (%) | 12.9 | 9.3 | -3.5 | |
| 8. (1:5): Employed/total pop. (%) | 78.4 | 81.6 | 3.2 | |
| <i>Age 45 and over</i> | | | | |
| 1. Employed population | 5 737 | 6 942 | 1 205 | 21 |
| 2. Unemployed population | 572 | 633 | 61 | 10.7 |
| 3. (1+2): Labour force | 6 309 | 7 575 | 1 266 | 20.1 |
| 4. Economically inactive population | 2 384 | 2 612 | 228 | 9.6 |
| 5. Population 45 plus | 8 693 | 10 187 | 1 494 | 17.2 |
| 6. (3:5): Participation rate (%) | 72.6 | 74.4 | 1.8 | |
| 7. (2:3): Unemployment rate (%) | 9.1 | 8.4 | -0.7 | |
| 8. (1:5): Employed/total pop. (%) | 66 | 68.1 | 2.2 | |

Source: CBS.

Question 11. Please provide information on measures taken to combat the problem of difficult access to the labour market for ethnic minority women, due to their wearing of a headscarf or not speaking fluent Dutch.

The Netherlands

75. The Government regards tackling discrimination as an important element of policy aimed at creating equal labour market opportunities. People should be judged on their talents, not on their origins. The Government has therefore introduced general measures with focus on awareness and the improvement of imaging to prevent and tackle the discrimination of all vulnerable groups, which also benefit ethnic minority women. It has not however taken any specific measures to tackle discrimination against ethnic minority women. The Government focuses on the specific needs of individuals. Municipalities and the public employment service (UWV WERKbedrijf), have the first responsibility to assist the unemployed to becoming employed. For example concerning language skills, the Dutch labour market consists of a large number of service oriented lines of businesses, therefore

good comprehension of and Dutch speaking is an important qualification. Therefore municipalities, amongst others, offer language courses for ethnic minorities.

76. Various instruments and initiatives have been used to curb labour market discrimination and to tackle negative and foster positive images.

77. Ministry of Social Affairs and Employment initiatives and instruments are:

- Since 2004 the Ministry of Social Affairs and Employment has been subsidising the National Diversity Management Network (DIV), which implements a number of working programmes targeting diversity in the SME sector and some parts of the public sector.
- The Ministry is subsidising two projects run by Forum (the Institute for Multicultural Affairs): the K!X promotion teams project (providing a colourful boost for colourful success) and a positive image campaign for the care services entitled Kleur in Zorg. The basic idea behind the K!X promotion teams is to improve the image of ethnic minority youngsters. As part of the Kleur in Zorg project, a campaign is to be developed to raise awareness of prejudices and promote positive images.
- The Ministry is also conducting a study of diversity policy in collective agreements, assessing whether they take account of differences between employees. The results of the study will be brought to the attention of the social partners.
- In 2009 a provision was incorporated into the Working Conditions Act stipulating that employers are obliged to conduct an active anti-discrimination policy. Where there is a clear likelihood of discrimination in a particular company, the Labour Inspectorate may require the employer to introduce a targeted policy. If the employer fails to do so, the Inspectorate may impose a fine.

78. Other activities are as follows:

- The Municipal Anti-Discrimination Services Act entered into force on 28 July 2009, obliging local authorities to give residents in its area access to anti-discrimination services. The introduction of the legislation was accompanied by a national campaign designed to encourage victims of discrimination to report their experiences.
- The police and Public Prosecution Service now have a much greater focus on discrimination. National guidance stipulates that all cases of discrimination must be reported. A regional forum on discrimination has also been established in each police region where the police, Public Prosecution Service and anti-discrimination bureaus regularly meet to discuss current cases.
- Efforts to achieve more cultural diversity have priority at the moment, both in central government as a whole, and in the various parts of government. Policy on labour market entry, mobility/promotion and prevention of early labour market exit also focuses on diversity.

Labour market status of women (including ethnic minority women)

79. Labour market participation by women in the Netherlands has risen substantially over the past few decades. While only 35 per cent of women aged between 15 and 65 worked in 1987, by 2007 this figure had risen to 53 per cent. This has accordingly reduced the gap between the labour market participation rates of men and women. While in 1987 women's rate was only half that of men (35 per cent as opposed to 70 per cent), by 2007 it was over two-thirds (53 per cent versus 75 per cent). Statistics Netherlands, Working Population Survey; in SCP/CBS, Emancipation Monitor 2008.

80. Labour market participation among women of non-Western ethnic origin (aged 15–64) has also risen sharply over a relatively short period of time, showing an increase of 8.0 percentage points between 2005 and 2009 (to the end of the third quarter). Unemployment in this group fell by 7.2 percentage points.

Article 7 – Right to just and favourable conditions of work

Question 12. Please provide information on whether the minimum wage in the Netherlands Antilles provides workers and their families with a decent standard of living (E/C.12/NLD/4/Add.1, para. 24).

The Netherlands Antilles

81. In 2008 the Central Bureau of Statistics held a poverty line assessment in Curaçao. The intention was to establish a poverty line for each island, taking into consideration their socioeconomic situation. The study was based mainly on the food basket principle, indicators for which include expenditure not only on food but also on housing, water and electricity.

82. The Government of the Netherlands Antilles is endeavouring to use the results of the poverty line study to progressively adapt its national policies and legislation to bring them into line with international commitments as set down in the UN Millennium Development Goals (poverty reduction) and the ILO Decent Work Programme (fair remuneration). In this way, the minimum wage laid down in the Minimum Wage Ordinance and other social provision can be adapted and re-adapted to ensure that the incomes of the less privileged are above the poverty line established in the study.

83. On 1 July 2008 the poverty line for a standard household with two adults and two children was set at ANG 2,195 (approximately USD 1,200) per month. This was the total amount needed to purchase all basic necessities, with VAT. In effect, the poverty line represents disposable income after salaries tax and social security contributions have been deducted, but includes the net health insurance contribution.²

84. The amounts set are as follows:

| | |
|---------------------|------------|
| • Food | ANG 997.42 |
| • Housing | ANG 334.62 |
| • Electricity | ANG 138.41 |
| • Water | ANG 80.54 |
| • Other expenditure | ANG 633.76 |

(All figures are in ANG (Netherlands Antillean guilders); one US dollar is ANG 1.82.)

Question 13. Please provide details of policies and programmes aimed at ensuring the rights of domestic workers, especially in the Netherlands Antilles, to receive remuneration equivalent at least to the official minimum wage, so as to benefit from adequate social security and to enjoy just and favourable working conditions.

² Source: CBS.

The Netherlands

85. The Government does not pursue any specific policy aimed at safeguarding the rights of “domestic workers”. Because there is no need for, since domestic workers enjoy sufficient protection under current legislation. Domestic workers with a contract of employment are covered by the law governing such contracts. The Minimum Wage and Minimum Holiday Allowance Act gives workers the right to a minimum wage. Domestic workers are also eligible for social insurance if they work under a contract of employment. However, employees who generally work fewer than four days a week, exclusively or almost exclusively providing services in the household of the natural person who employs them, are subject to a different regime set out in regulations pertaining to domestic services.

86. These regulations were introduced to boost the market for personal services. They set out a framework that allows all kinds of domestic services to be contracted out more easily. This has fostered employment for domestic workers. The unique feature of domestic workers lies in the fact that they work for private individuals or households. An excessive administrative burden on private individuals or households is detrimental to official employment in the domestic services sector, making domestic staff more likely to be employed under informal arrangements.

87. Under the domestic services regulations, employees who generally work fewer than four days a week, exclusively or almost exclusively providing services in the household of the natural person who employs them, are not covered by statutory incapacity or unemployment insurance, and enjoy less protection in the event of termination of contract than other employees. The domestic worker is not an employee as referred to in the Sickness Benefit Act, the Work and Income (Capacity for Work) Act and the Unemployment Benefit Act. In the event of illness, they are entitled to continued payment of wages for only six weeks (under article 7:629 of the Civil Code), and the employer does not require permission from the public employment service UWVWerkbedrijf to terminate their employment contract (article 2, Labour Relations Decree 1945).

The Netherlands Antilles

88. In the Netherlands Antilles the minimum wage is expressed in terms of the minimum hourly wage. The minimum weekly wage is determined by multiplying the number of hours worked per week by the minimum hourly wage. The minimum monthly wage is calculated by multiplying the minimum weekly wage by the factor 4.33. The minimum hourly wage applies to all workers, including domestic personnel.

89. Every employee has the right to a wage that is based on no less than the current minimum hourly wage.

Table 6

Minimum wage trends

| | <i>Curaçao</i> | <i>Bonaire</i> | <i>Saba</i> | <i>Saint Eustatius</i> |
|------------------------|----------------|----------------|-------------|------------------------|
| As of 1 December 2004 | 5.77 | 6.00 | 5.77 | 5.49 |
| As of 1 January 2006 | 5.98 | 6.08 | 5.94 | 5.65 |
| As of 1 January 2007 | 6.14 | 6.16 | 6.12 | 5.82 |
| As of 1 January 2008 | 6.35 | 6.27 | 6.26 | 5.95 |
| As of 1 September 2008 | 7.30 | 6.27 | 6.26 | 5.95 |
| As of 1 November 2008 | 7.30 | 7.21 | 6.26 | 5.95 |

| | <i>Saint Maarten</i> |
|-----------------------|----------------------|
| As of 1 December 2004 | 6.35 |
| As of 1 January 2006 | 6.54 |
| As of 1 November 2006 | 7.79 |
| As of 1 January 2008 | 7.96 |

(All figures are in Netherlands Antillean guilders.)

Source: Labour Affairs Department.

90. The Labour Regulations 2000 provide rules on working hours, breaks, periods of rest, shift work, overtime, child labour, night labour, dangerous labour and labour by (live-in) domestic personnel. They are applicable to workers earning wages equal to or below the limit for paying health insurance contributions. Domestic workers are also covered by the Vacation Ordinance which entitles them to a vacation of at least three times the contracted number of paid weekly working days in each consecutive year worked for the same employer.

Question 14. Please provide information on any measures taken to protect women against discrimination in the labour market on grounds of pregnancy and motherhood.

The Netherlands

91. In Dutch law, the rules regarding equal treatment are laid down in the Civil Code and in a number of specific pieces of legislation. Both the Civil Code and the Equal Treatment (Men and Women) Act apply to discrimination on grounds of pregnancy and motherhood.

Civil Code

92. The Civil Code stipulates that, as a general rule, employers may not differentiate between men and women when entering into a contract of employment, providing instruction, agreeing terms and conditions of employment and terminating the contract (Book 7, art. 646).

93. Dutch law distinguishes between direct and indirect discrimination. In the case of direct discrimination, only the exceptions to the ban specified in legislation are permitted. Discrimination on the grounds of pregnancy and motherhood is classed as direct discrimination. Discrimination as a result of maternity leave — e.g. in the event of reduced availability — is also deemed to be inextricably and unavoidably linked with pregnancy, and is therefore also regarded as a form of direct discrimination.

94. The law defines three exceptions to the general rule prohibiting discrimination. One stipulates that discrimination between men and women is permissible if it is for the purpose of protecting women, particularly in connection with pregnancy and motherhood.

95. Motherhood in the Netherlands is interpreted as being the mother of young children, and is subject to this exception only if it concerns protection relating to the physical consequences of pregnancy and childbirth. This exception therefore aims to protect the rights of women during pregnancy and motherhood, not to undermine their legal status. An exception may, for example, apply if a mother wishes to breastfeed her child.

Equal Treatment (Men and Women) Act

96. In addition to the Civil Code, the Equal Treatment (Men and Women) Act governs equal treatment of men and women.

97. Like Book 7 article 646 of the Civil Code, the Act regulates the equal treatment of men and women in the public service, when they are appointed as public servants, or enter into employment under a contract of employment governed by civil law, in their terms and conditions of employment, in their working conditions, in instruction, and in the event of promotion or termination of contract. The legislation also contains separate provisions governing the application phase prior to appointment.

98. As in Book 7, article 646, differentiation between men and women is permissible if its purpose is to protect women, particularly in connection with pregnancy and motherhood.

Equal Treatment Commission

99. The Equal Treatment Commission supervises enforcement of the ban on the unequal treatment of men and women as laid down in the Civil Code and the Equal Treatment (Men and Women) Act. The Commission provides an additional means of enforcing compliance with the law on this matter, alongside the courts.

100. A Commission ruling does not have the legal force of a binding recommendation or a court judgement. Parties are not therefore obliged to request the opinion of the Commission before going to court. In practice, however, Commission rulings are generally complied with.

101. The Equal Treatment Act also allows the Commission to issue recommendations to the party accused of discrimination. These recommendations may, among other things, refer to their policy, to a specific case, or to actual circumstances.

The Netherlands Antilles

102. In 1999, maternity leave in the Netherlands Antilles was extended from 60 days to 12 weeks. Since 29 April 1999, article 1614ca of the Civil Code has entitled pregnant employees to paid maternity leave, i.e. a minimum of four and a maximum of six weeks prior to the estimated delivery date and a minimum of six and a maximum of eight weeks after the birth. The purpose of maternity leave, to which all female employees, irrespective of their income, are entitled, is to protect the employee and her child, and to guarantee their safety, health and well-being.

103. The new draft of the Civil Code of the Netherlands Antilles referred to above includes provisions on extended pregnancy leave (art. 7:629a) and a ban on night work and work involving prolonged standing for pregnant women (art. 7:657c). These provisions are the result of the work of the 2008 Commission on Maternity Protection, which was set up to ensure health protection in compliance with ILO convention 183.

104. As of 27 December 2009, changes were introduced to the Sickness Insurance Act and the Civil Code of the Netherlands Antilles with respect to pregnancy and maternity leave. As a result, pregnant employees are now entitled to a total of 14 weeks' leave, which may be divided into 7 weeks before and 7 weeks after delivery. Employees who are insured with the Social Security Bank (SVB) are entitled to 80 per cent of their salary and the rest from their employer. The employee determines when her leave will start on the basis of the expected date of delivery supplied by her family doctor, midwife or medical specialist (gynaecologist) and taking into account the requirements of the above Act. Pregnancy and maternity leave together comprise 14 weeks. The law does not permit any departures from this provision, if it is to the disadvantage of the employee, nor may the employer dismiss the employee during pregnancy and maternity leave.

Question 15. Please provide detailed information on the results of the work-life balance projects described in the State party's report (E/C.12/NLD/4-5, para. 66).

The Netherlands

105. In the study “Naar flexibele tijden tussen 7 en 7”, it has been concluded that the majority of work-life projects (In Dutch “Dagindeling projecten”) has been a success. Some of the useful and transferable results can be used by municipalities, employers, healthcare organizations, schools and day-care facilities. The ministry has used the end of the projects to gain public awareness for the results by informing employers and labour organizations about the results and by organizing a number of working visits. The complete results have been made accessible in a number of databases of Syntens, NICIS/KGCS, Grijs Werkt en NCSI.

106. Effects of labour participation measures, amongst others the work-life balance projects, is that the labour market participation by women in the Netherlands has risen substantially over the past few decades. While only 35 per cent of women aged between 15 and 65 worked in 1987, by 2007 this figure had risen to 53 per cent. This has accordingly reduced the gap between the labour market participation rates of men and women. Whereas in 1987 women's participation rate was only half that of men (35 per cent as opposed to 70 per cent), by 2007 it was over two thirds (53 per cent versus 75 per cent). Statistics Netherlands, Working Population Survey; in SCP/CBS, Emancipation Monitor 2008. The current labour market participation rate for women puts Netherlands in the European top five. Only the Nordic countries and Switzerland have a higher rate (Eurostat, in: SCP, Nederland deeltijdland).

107. Labour market participation among women of non-Western ethnic origin (aged 15–64) has also risen sharply over a relatively short period, showing an increase of 8 percentage points between 2005 and the year to the end of 2009-III. Unemployment in this group fell by 7.2 percentage points (see figure 1.3.3).

Article 8 – Trade union rights

Question 16. Please elaborate on the implementation of workers' rights, including collective bargaining rights, the incidence of strikes, and the extent to which the restrictions on the right to strike under domestic law are compatible with the Covenant.

The Netherlands

108. Dutch labour law governs relations between employers and employees, either individually or collectively. Labour law is based on Title 10 (Contracts of employment) of Book 7 of the New Civil Code (BW:7).

Book 7, Civil Code

109. The key issues covered by labour law under BW:7, from article 610 onwards, are:
- When is a contract of employment deemed to have come into being (legal presumption: after three months of weekly work, or at least 20 hours of work a month)?
 - When does a contract of employment become permanent (Flexibility and Security Act)?
 - When is a probationary period applicable?

- The obligations of employers and employees (conduct befitting a good employer and employee)
- Employers' obligations to continue payment of salary
- Obligation to continue payment of salary for 104 weeks during illness, and the employee's reintegration obligations
- Leave
- Equal treatment
- Termination of contract (automatically on the expiry date, bans on termination, compelling reasons, summary dismissal, notice period, dissolution by district court at request of employer/employee, compensation – redundancy pay formula, benefits agency termination permit, collective redundancy)

110. Other legislation pertaining to labour law includes the Working Conditions Act, the Working Hours Act, the Collective Redundancy (Notification) Act, and also the Collective Agreements Act.

Collective Agreements Act

111. The Collective Agreements Act has been in force since 1927. The legislation regulates the following matters:

- What a collective agreement is.
- Who is authorised to enter into a collective agreement. Employers' and employees' associations must stipulate in their statute that they are authorised to enter into such agreements.
- The fact that an association which enters into a collective agreement is obliged to provide its members with a copy of the agreement.
- The fact that provisions in a contract of employment that do not comply with the collective agreement are deemed null and void.
- Who is bound by the collective agreement.
- The fact that an employer who is bound by a collective agreement must apply the terms of that agreement to employees who are not bound by the agreement.
- The fact that the rights and obligations in the collective agreement are transferred to the new employer in the event of a takeover.

Right to strike subject to scrutiny of courts

112. In the Netherlands the right to collective action (right to strike) is universally recognized and any restrictions on this right (previously under article 31 of the old European Social Charter, now under part V, article G, of the revised European Social Charter) must be assessed by a court. The conditions for exercising the right to strike are laid down not in legislation but in the case law of the country's highest legal body. The Dutch Government does not believe it is necessary to codify these "criteria" developed by the Supreme Court to determine, for example, whether a strike would disproportionately damage the interests of third parties, since the case law has legal force in the Netherlands.

113. The case law that has developed on the right to strike adequately fleshes out the normative framework in the European Social Charter, taking more account of the particular circumstances of each instance of collective action than would be possible in legislation.

Strike statistics

114. Statistics Netherlands records statistical information on strikes in the Netherlands. Its website <http://statline.cbs.nl/statweb/> contains a great deal of information and figures on strikes.

115. A summary of the number of disputes, the number of working days lost and the number of workers involved (by sector, over the period 2004–2009) is given in appendix 2 (see annex 2). The appendix also contains background information on strike action in 2009, and on the role of the unions in strikes.

116. The Dutch law on strikes is compatible with the Covenant. The restrictions that Dutch law places on the right to strike do not contravene article 8, as this article stipulates that it must be exercised in conformity with the laws of the particular country.

Public servants

117. The right to collective action for public servants was also recognized on the basis of case law when the European Social Charter (revised) was approved and ratified (by Act of 1 December 2005, Bulletin of Acts and Decrees 694). The following considerations played a role in the decision to withdraw the reservation that had previously been made with regard to public servants. Initially, it had been regarded as desirable to acknowledge the right to collective action by government employees only once legislation on this issue had been passed. Over the years, however, every attempt to submit a bill failed. In the meantime, government employees had taken collective action on a number of occasions. Their right to do so had never been denied, either in practice or in case law. The reservation to article 6, paragraph 4, therefore no longer has any practical significance in the Netherlands.

118. The absence of relevant legislation in the Netherlands meant that collective action by government employees — as in the private sector — could be prevented only by applying to a court for an injunction declaring planned or current action illegal and banning it under article 6:162 of the Civil Code. The court would then assess whether the action was permissible in view of article 6 in conjunction with article G, part V, of the revised Charter, and whether the requested ban was necessary in a democratic society in order to protect the rights and freedoms of others, public order, national security, public health or public decency. The court would thus interpret the right to strike and any restrictions on this right in a manner appropriate to the specific situation.

119. The fear underlying the reservation that any exercise of the right to strike by government employees would have unacceptable consequences for society has in retrospect — partly due to the case law in such matters — proved unjustified in the Dutch situation. In view of this, when the revised Charter was adopted the Netherlands did not propose any new reservation applying to all staff employed in the public sector. The Government assumes that there will be no change in the courts' approach to collective action by the various categories of government employees.

Military and civilian staff at the Ministry of Defence

120. In recognizing government employees' right to strike in the Act adopting the revised European Social Charter, a reservation was made in the case of defence staff, given the specific role of the defence organization.

121. The right of defence staff (service personnel on active duty and civil servants working for the Ministry of Defence) to take collective action was laid down in the revised Military Personnel Act 1931 (under subsection 12i), effective from 1 January 2008. The Act sets out the restrictions applying to their right to collective action, taking account of the particular demands and obligations attaching to the role of the armed forces, which do not

apply — or apply to a lesser extent — to other organizations. The legislation stipulates that participation in strikes and collective action is not permitted in so far as it might disrupt or hamper the operational deployment of the armed forces.

122. The reason for this restriction lies in the fact that protecting the public interest and national security means that the responsibilities of the armed forces and the associated requirements in terms of operational deployability and response capacity are not compatible with a right of service personnel to participate in strikes or collective action that might disrupt or hamper the operational deployment of the armed forces. It should be remembered that armed forces units are deployed all over the world in peacekeeping and peace enforcement operations, and in crisis management operations, generally in association with other allies. It is not merely the actual disruption or hampering of operations that is at stake here, but also the international reliability and credibility of the Dutch defence effort. The operational preparedness of the armed forces as an instrument for the protection of the interests of the state in all circumstances may never be in doubt.

The Netherlands Antilles

123. According to article 10 of the Constitution of the Netherlands Antilles, freedom of association, demonstration and assembly are guaranteed through the existence of incorporated trade unions. With the forthcoming entry into force of the revised Criminal Code of the Netherlands Antilles, the ban on the right to strike will no longer have a statutory basis in Netherlands Antillean law.

124. According to the Labour Regulations it is forbidden, under penalty of nullity, for an employer to terminate a worker's employment contract because the worker is a member of a trade union or has participated in trade union activities, unless these activities took place during working hours and the employer had, for good reason, refused to give his consent for the worker to participate in them.

125. The National Ordinance on Labour Conflicts obliges employers to negotiate a collective labour agreement with the union that has received a majority of the votes in a referendum on union representation. Recognition in this way of a trade union implicitly gives its representatives the right of access to its members on the employer's premises and the right to hold meetings with them.

126. The activities of the Office of the Government Mediator (*Landsbemiddelaar*) in Curaçao included 514 mediation meetings in 2009. This is twice as many as in 2008 (275). There were a total of seven union recognition meetings, two of which led to voluntary recognition of the union as a full collective bargaining party within the companies concerned. Ninety-five collective agreements (CAOs) were signed and were subsequently registered by the Office in 2009.

Activities of the Government Mediator in Curaçao, 2000–2009

| Year | Mediation | Strikes | | | Registered, valid CAOs | Total No. of cases dealt with | | | |
|------|-----------|-------------------|------------------|----------------|---------------------------|----------------------------------|-----------------------------|-------------|---------------------------|
| | | Private sector | Public sector | CAOs agreed | | Disputes | Requests for recognition | Referendums | Voluntary recognitions |
| 2000 | 246 | 15 | 11 | 14 | 96 | 25 | 1 | 0 | 0 |
| 2001 | 240 | 6 | 15 | 29 | 97 | 25 | 5 | 1 | 1 |
| 2002 | 266 | 10 | 3 | 15 | 91 | 19 | 9 | 4 | 2 |
| 2003 | 318 | 19 | 7 | 21 | 93 | 21 | 8 | 5 | 0 |

| Year | Strikes | | | | | Total No. of cases dealt with | | | |
|--------------|--------------|------------|-----------|-------------|------------------------|-------------------------------|--------------------------|-------------|------------------------|
| | Mediation | Private | Public | CAOs agreed | Registered, valid CAOs | Disputes | Requests for recognition | Referendums | Voluntary recognitions |
| | | sector | sector | | | | | | |
| 2004 | 130 | 11 | 8 | 14 | 89 | 11 | 6 | 1 | 1 |
| 2005 | 210 | 12 | 7 | 15 | 108 | 11 | 13 | 4 | 2 |
| 2006 | 186 | 29 | 10 | 15 | 91 | 19 | 5 | 3 | 1 |
| 2007 | 171 | 23 | 20 | 17 | 93 | 19 | 3 | 1 | 1 |
| 2008 | 239 | 19 | 3 | 8 | 93 | 28 | 4 | 0 | 4 |
| 2009 | 514 | 7 | 6 | 20 | 95 | 28 | 7 | 0 | 2 |
| Total | 2 520 | 151 | 90 | 168 | 946 | 206 | 61 | 19 | 14 |
| Average | 252 | 15 | 9 | 17 | 95 | 21 | 6 | 2 | 1 |

Source: Labour Affairs Department.

Article 9 – Right to social security

Question 17. Please indicate whether the Benefit Entitlement Act (Koppelingswet, Stb. 1998, 203) excludes any persons based on their nationality or legal status from social security benefits.

The Netherlands

127. The Government is opposed in principle to rights to benefits for aliens without lawful residence rights, who are under an obligation to leave the Netherlands. In 1998 the Government took legislative steps to prevent illegal aliens receiving de facto assistance from the Government without the lawfulness of their residence being examined, thereby facilitating the prolongation of such residence in the Netherlands and creating a false image of legality. An Act of Parliament entered into force on 1 July 1998 amending the Aliens Act and certain other Acts of Parliament, the object being to link entitlement to various provisions, benefits, exemptions and licences to lawful residence in the Netherlands. This piece of legislation, which incorporates the ‘linkage principle’, is known as the Benefit Entitlement (Residence Status) Act (Koppelingswet).

128. The Benefit Entitlement (Residence Status) Act was intended to put an end to a situation that had arisen in the Netherlands which was considered unjust and undesirable. In the 1970s and 1980s many aliens who were not entitled to residence in the Netherlands nonetheless succeeded in prolonging their de facto residence in this country, partly because they could obtain public provision such as unemployment and invalidity benefit and social assistance. As things stood, the Government’s policy to curb unlawful residence in the Netherlands was thwarted by the fact that the assessment of entitlement to public provision did not include checks to establish whether the person concerned was residing lawfully in the Netherlands.

129. The Benefit Entitlement (Residence Status) Act incorporates the linkage principle by linking aliens’ residence status to their entitlement to public provision, in the sense that an alien who is residing unlawfully in the Netherlands cannot lay claim to such provision. This principle is subject to certain exceptions. For aliens who are residing lawfully in the Netherlands, the rule is that entitlement is linked to their residence status. This means that an alien who has been admitted to the Netherlands unconditionally has the same

entitlement, in principle, as someone of Dutch nationality. An alien who has only been admitted for a temporary stay cannot in principle claim entitlement to public provision.

130. Certain benefits and services are not linked to a person's residence status and, as such, constitute exceptions to the linkage principle.

131. They are:

- Necessary medical care (including preventive care such as vaccinations, antenatal care etc.)
- Minors' right to education
- Right to legal aid

132. In such cases, residence status is not checked in order to establish whether the benefit or service may be provided.

Question 18. Please indicate if there will be a compensation arrangement for self-employed women who did not receive maternity leave benefits before the new legislation providing such benefits came into effect in July 2008.

The Netherlands

133. The basic principle is that new legislation takes immediate effect. In other words, new legislation applies only to new cases. Legislation will be given retroactive force only if there are special reasons to do so. In the case of maternity benefit for self-employed women, it was not felt necessary to grant benefit retroactively, as this would not achieve the objective of the scheme, which is to help protect the health of mother and child. This is achieved by providing benefits to reduce the financial necessity for self-employed women to continue working until shortly before their baby is due, and to return to work quickly after the birth. This effect on behaviour would not, by definition, be achieved by providing benefits retroactively, when the period immediately before and after childbirth has already passed. Though providing benefits retroactively would provide women with some financial recompense, it would have no impact on their decision as to when to stop work.

Article 10 – Right to marry and found a family, protection of the family, mothers and children

Question 19. Please provide information on the results of the 2008 major public survey on domestic violence mentioned in the State party report (E/C.12/NLD/4-5, para. 105).

The Netherlands

134. A national survey of the nature and scale of domestic violence was launched in 2008. The survey includes three separate studies: an estimate of the scale of the problem, a victim survey and an offender survey. Due to the scale and complexity of the survey, it has experienced some delay. It also took some time to ensure enough ethnic minority respondents were represented in the survey. The three individual studies are now complete. Since various data sources were used in these studies, an 'overarching' report is now being drafted which will present the key results of all three in combination. The reports should be available in autumn 2010.

Question 20. Please elaborate on the efforts made by the State party to redress the situation of child sexual abuse in the State party, as recommended by the Human Rights Committee in July 2009 (CCPR/C/NLD/CO/4, para. 17).

The Netherlands

135. The Human Rights Committee was concerned that the efforts deployed to protect children (i.e. the “Children Safe at Home” Action Plan) were inadequate and that many cases of abuse were not reported. The Committee recommended that the Netherlands strengthen its efforts to combat child abuse by improving mechanisms for its early detection, encouraging reporting of suspected and actual abuse, and by requiring authorities to take legal action against those involved in child abuse.

136. On 20 November 2008, the State Secretary for Health, Welfare and Sport, the Minister of Justice, and the Minister for Youth and Families announced a plan to implement an obligatory reporting code on child abuse and domestic violence provided for by law. This obligatory reporting code, which is also intended for honour-related violence and female genital mutilation, is to provide guidance for professionals on how to identify these forms of violence at an early stage and how to handle these cases. In anticipation of this reporting code becoming obligatory, industry and other sectors will be encouraged to actively cooperate. Efforts will also be made to increase the knowledge of professionals. In the context of the future Reporting Code Act, provisions will also be made for a reporting right in cases of domestic violence, in line with the provisions that also apply to child abuse. This reporting right implies that professionals have the right to waive their professional confidentiality if they identify a case of domestic violence or child abuse.

Question 21. Please provide information on the availability of full-time and part-time childcare and appropriate after-school programmes.

The Netherlands

137. By the end of 2007 some 560,000 children were in some form of childcare in over 5,000 day-care centres, paid for by parents, employers and the Government (as opposed to 340,000 children in 2004). Increasing both the capacity and quality of childcare arrangements has been high on the agenda of Dutch government policy over the last decade. An adequate supply of quality childcare facilities gives parents more opportunities to combine work and care.

138. According to tax administration figures, at the end of 2008 715,000 children were in childcare, the majority (322,000) of them in day care. In 2008 238,000 children attended after-school programmes, 27 per cent more than in 2007. In addition, 90,000 under-4s and 65,000 primary school pupils were in the care of childminders at the end of 2008, representing a growth of 41 per cent among the former group, and 55 per cent among the latter (aged 4 to 12).

139. In 2009 the number of places in day care increased by 19,663, to a total of 166,229 (13 per cent growth). An additional 30,133 new after-school care places were created, bringing the total to 186,226.

140. At the end of 2009 more than 2650 organizations were offering daycare, after-school programmes, childminding services or a combination of these services. This represented a 13 per cent rise on 2008. The number of organizations providing daycare and/or after-school care grew by 12 per cent, as did the number of organizations providing childminding services.

141. Over the past year the number of locations where daycare is provided has risen by 14 per cent (from 3840 to 4393). The number of locations where after-school care is available rose by 15 per cent (from 4691 to 5393).

The Netherlands Antilles

142. In 2001 a national childcare policy was formulated by the Central government of the Netherlands Antilles. This policy, which included quality standards, was used as a basis by the Government of each of the islands for the creation of their own specific regulations with regard to childcare. On each island there are daycare centres which receive government grants or have subsidised places for the children of parents on low incomes and privately owned day-care centres. Daycares centres operate the whole day and sometimes also offer out-of-school programmes. Out-of-school care is an integral part of primary education in the Netherlands Antilles and it is also provided by schools for special education, and various other organizations and community centres.

Question 22. Please provide information on any steps taken to make human trafficking a specific criminal offence under Antillean law.

The Netherlands Antilles

143. As yet, there is no article of the Criminal Code that makes human trafficking a specific criminal offence. Cases of human trafficking are currently prosecuted on the basis of other offences, such as fraud, kidnapping, people smuggling and coercion as defined in the Criminal Code. Under article 260 of the Criminal Code, the trafficking of women and minors is an offence, with a maximum penalty of five years' imprisonment.

144. Since the Government of the Netherlands Antilles attaches great importance to combating human trafficking, it decided not to deal with this offence as part of the general revision of the Criminal Code, but in separate legislation, which has now been submitted to parliament. It is likely that parliament will pass this legislation within the next few months.

145. Once this legislation has been passed, the Netherlands Antilles will be able to ratify agreements such as the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime and the Council of Europe Convention on Action against Trafficking in Human Beings.

Question 23. Please provide information on the minimum age at which a child can be tried under adult criminal law, and at which age a child can be sentenced to life imprisonment in the Netherlands Antilles.

The Netherlands Antilles

146. The minimum age at which a child can be tried under adult law is 16. Under the current Criminal Code, therefore, minors aged 16 or 17 can be sentenced to life imprisonment in the Netherlands Antilles if the seriousness of their crime, or their character, warrants it. However, for this penalty to be imposed, several statutory criteria have first to be met. Article 146, paragraph 2 of the revised Criminal Code will ban life imprisonment for minors.

Article 11 – The right to an adequate standard of living

Question 24. Please indicate what measures have been taken to address the problem that some 10 per cent of households in the State party live below the poverty line.

The Netherlands

147. Chapter 2 of the National Strategic Report on Social Protection and Exclusion examines in depth the measures being taken to reduce poverty and social exclusion (see annex 3). This chapter, also known as the National Poverty Reduction and Participation

Promotion Action Plan, describes government-wide efforts against poverty and social exclusion based on four priority objectives. Examples of the targets set out in the action plan are reduction of illiteracy, promotion of entrepreneurship, prevention and tackling of child abuse, promotion of the use of facilities and services, and debt counselling.

Question 25. Given that there are reportedly some 140 food banks in the State party, please indicate what concrete measures have been taken by the State party in relation to food security, and their outcome.

The Netherlands

148. The Netherlands has an extensive system of social welfare provision. This guaranteed minimum income (between €650 and €1,300 net per month, depending on household composition) enables people to meet their basic needs, including food, clothing and shelter. A study by the Netherlands Institute for Social Research (SCP) (article in *Economische Statistische Berichten*, 14 May 2010) shows that although the minimum income has lagged behind the general increase in prosperity over the past 25 years, it is sufficient for single people, rather high for the elderly and one-parent families, and sometimes too low for households with several children.

149. Unfortunately, some people (even those on high incomes) still get into debt and the repayment arrangements they make may force them to live below the minimum level. There are also people who fail to exercise their right to social provision. The authorities inform people, e.g. those on social assistance benefit, if they are entitled to crisis payments. These can be used for essential investments, such as the purchase of a fridge.

150. As far as food banks are concerned, the Government has agreed with the VNG to improve cooperation between municipalities and local food banks to encourage those who use food banks to avail themselves of municipal provision. This agreement will be monitored by conducting a baseline survey and then a follow-up survey in September 2010. This will show whether more municipalities and food banks are working together. In addition, a conference aimed at improving cooperation was held on 3 December 2008, and was attended by many members of municipal executives and food bank representatives. Some of them signed a declaration of intent for this purpose with the State Secretary. On the basis of the results of the conference, the Ministry of Social Affairs and Employment has developed a toolkit for improving cooperation between food banks and municipalities.

Question 26. Please provide information on the extent of homelessness and malnutrition among asylum-seekers and immigrants without legal residence. Please also indicate whether such persons are entitled to benefits under the Work and Social Assistance Act (Wet Werk en Bijstand, Stb. 2003, 375).

The Netherlands

151. Provisions to which asylum-seekers are entitled in the Netherlands are governed by the Benefits in kind for asylum-seekers and other categories of aliens scheme 2005 (RVA). Under this scheme, asylum-seekers are, for example, entitled to money to cover the costs of food, or provision of food in kind, a clothing allowance and pocket money. The amount available to asylum-seekers for food is determined in accordance with the standards of the National Institute for Family Finance Information (Nibud).

152. Asylum-seekers are also insured against the costs of medical care, and therefore able to have access to guidance on healthy eating. Asylum-seekers are also offered accommodation. They are not entitled to social assistance until they have obtained a residence permit, however. The RVA scheme provides help pending social assistance. The overall package covered by the Work and Social Assistance Act therefore provides the

guideline for the nature and scale of provision available under the RVA 2005 scheme. Account is also taken of the situation and background of the asylum-seeker in question.

153. Asylum-seekers who are no longer legally resident in the Netherlands are entitled to accommodation and other facilities pending repatriation in order to allow them to prepare for their departure. The deadline for return is 28 days, which can be extended by three months in order for them to effect their departure.

Question 27. Please outline the measures taken to remedy the housing situation of the most disadvantaged and marginalized individuals and groups, such as immigrants without legal residence and drug addicts.

The Netherlands

154. In 2006 a start was made on an action plan for shelters in the community designed to take homeless people off the streets. The two pillars of the plan are an individual approach to finding these people accommodation, work and income, and joined-up collaboration between all parties. The process is overseen by local authorities, under the Social Support Act. Under this legislation, designated municipalities are obliged to 'offer temporary shelter, counselling, information and advice to individuals who, due to one or more problems, have been forced from or have voluntarily left their home and are not capable of looking after themselves in the community'. These municipalities receive a decentralised budget from central government for this purpose. Care is also often provided under the terms of the Exceptional Medical Expenses Act. A start has been made in the four largest cities in the Netherlands. Key elements of this approach include preventing evictions, preventing homelessness after release from prison and debt counselling. After four years, 9,800 of the 10,000 homeless people in the four largest cities were in a programme. Since the policy has proved successful, it has been rolled out in the other designated municipalities.

155. A further step will be taken this year. Central government and the four cities are currently working on an action plan for the second phase, focusing on prevention of homelessness and rehabilitation.

Question 28. Please provide detailed and updated information on the nutritional status, in particular in the Netherlands Antilles, of immigrants, homeless people, single-parent families, children, unemployed people, low-income earners, older persons, persons with disabilities, persons living in rural areas, refugees and asylum-seekers, and their ability to access adequate, affordable and appropriate food and water.

The Netherlands

156. The Netherlands regularly assesses the diet of the population and various groups in its National Food Consumption Survey, which is performed by the National Institute of Public Health and the Environment (RIVM). Diet is assessed for both macro- and micronutrients. Data are collected for the whole population through a representative sample, and new results will be available in 2011. Results can be presented by socioeconomic class, age group, gender, consumption, location etc. Separate surveys are performed for young children (published 2006), the elderly (starting in 2010) and for people of non-Western origin (starting 2011).

157. The results of the food consumption survey (VCP) in 2003 showed that more than half of young adults meet the guidelines for total fat intake (see table 28.1). Most of them (92 per cent) do however eat too many saturated fats. They also eat too little fish, an important source of essential fatty acids. Only 9 per cent of Dutch children (aged 2–6) eat the recommended two portions of fish a week. One in four children and one in five young

adults never actually eat fish (VCP-kids, VCPJV; Ocké et al., 2008). Consumption of vegetables is also too low, with only 2 per cent of young adults achieving the recommended intake. The vast majority of two- and three-year-olds also eat too few vegetables, and virtually no four- to six-year-olds meet the recommended daily amounts. Fruit consumption is not much better. Only 7–8 per cent of young adults and a quarter of children eat enough fruit (Hulshof et al., 2004; Ocké et al., 2008). Salt consumption by the Dutch population as a whole is around 50 per cent above the recommended maximum amount of 6 g a day (Van den Hooven et al., 2007).

158. Percentage of young adults (aged 19–30) and children (aged 2–6) who meet the Good Diet Guidelines (Source: VCP 2003; Franssen et al., 2005; VCP-kids, 2006; Van den Hooven et al., 2007; Ocké et al., 2008).

Table 28.1

| | <i>Young adults</i> | | | <i>Children</i> | | | |
|------------|--------------------------|------|--------|-------------------|---------|-------------|---------|
| | Recommended | Male | Female | Recommended | Age 2–3 | Recommended | Age 4–6 |
| Vegetable | > 150 g/day ¹ | 5.5 | 0.2 | > 50 g/day | 19 | > 100 g/day | 1 |
| Fruit | > 200 g/day | 7.8 | 6.7 | > 150 g/day | 25 | > 150 g/day | 26 |
| Total fat | < 35 en% ² | 58 | 53 | < 40 en% | 99 | < 40 en% | 99 |
| Sat. fats | < 10 en% | 11 | 6 | < 15 en% | 98 | < 10 en% | 13 |
| Trans-fats | < 1 en% | 60 | 21 | No recommendation | - | < 1 en% | 90 |
| Fish | ≤ 1x/month | 47 | 41 | 2x/week | 10 | 2x/week | 8 |

¹ 0% consumed the recommended 200 g of vegetables a day.

² en% = energy percentage.

³ Recommended fish consumption is twice a week; the percentages indicate the prevalence of fish consumption once a month.

159. The Dutch still eat too much unhealthy fat and salt, and too little fish, vegetables and fruit. Quantitative food intake (calories) is not generally an issue in the Netherlands. Most policy measures therefore target food quality, educating people to make healthy choices.

160. Access to drinking water: 100 per cent of households in the Netherlands are connected to the water supply. The average cost of water is €1.38/m³ (= 1,000 litres) (in 2006, below-inflation price rise). Spending on drinking water: 0.6 per cent of the average household budget.

The Netherlands Antilles

161. This question will be answered during the presentation in Geneva.

Article 12 – Right to the highest attainable standard of physical and mental health

Question 29. Please clarify whether the right to health is guaranteed to immigrants without legal residence, and provide detailed information on their access to universal health coverage.

The Netherlands

162. Immigrants without legal residence status are guaranteed the right to health care, as doctors and medical practitioners have an obligation to provide medically necessary health

care. Immigrants without legal residence do not have a right to health care under the social health insurances. If these immigrants are not insured by a private health insurance they are primarily responsible for paying the costs of health care treatment themselves. Doctors and medical practitioners decide themselves whether or not the health care provided should be deemed medically necessary, taking into account the expected stay.

163. Doctors and medical practitioners can apply for reimbursement if the health care is not paid for by or on behalf of the immigrant without legal residence in the Netherlands. Medical practitioners can only apply for reimbursement for the basic health care package as set out under the Health Insurance Act and the Exceptional Medical Expenses Act, excluding gender reassignment and IVF treatments.

The Netherlands Antilles

164. As a general rule, no distinction is drawn between different groups in terms of the right to healthcare and medical attention. There is, however, a difference between people who are insured and those who are not. The insurance system currently operating in the Netherlands Antilles does not allow for insurance for illegal immigrants. Many are uninsured and due to difficulties encountered in registering with local authorities, this group is not eligible for either a Pro-Pauperie-card, which entitles the holder to 100 per cent reimbursement of medical costs, or any other form of medical insurance.

Question 30. Please clarify whether everyone in the State party has health insurance or access to affordable health care.

The Netherlands

165. In the Netherlands, everyone is entitled to medically necessary treatment. There is no legislation in the Netherlands that prohibits the provision of medically necessary treatment to anyone. On the contrary, every health care provider has a professional responsibility to provide such treatment.

166. Where people have health care insurance, some or all of the costs of such treatment are met by their insurance company. Immigrants without legal residence status do not have a right to health care under the social health insurance scheme. Uninsured people must meet the costs themselves. However, medically necessary treatment must be provided even if people cannot pay the costs.

167. Health-care providers who are unable to collect payment for medically necessary treatment given to immigrants without legal residence status in the Netherlands can apply for reimbursement. The entitlement to reimbursement is laid down in an amendment to the Health Insurance Act providing for the reimbursement of care providers who lose income as a result of providing medically necessary treatment to certain groups of aliens and of the Exceptional Medical Expenses Act with a view to insurance of certain groups of minor aliens. This Act was adopted on 30 October 2008 and came into force on 1 January 2009, superseding the special-purpose fund set up under the Benefit Entitlement (Residence Status) Act (as mentioned in the combined fourth and fifth periodic report submitted by the Netherlands in relation to article 12, Access to health care, 241).

168. Extensive information about the reimbursement possibility under the Act of 30 October 2008 is provided by the Health Insurance Board, which implements the measure. The information is given to care providers (such as general practitioners, hospitals, pharmacists), the coordinating organizations of care providers and to organizations representing undocumented immigrants and failed asylum-seekers.

The Netherlands Antilles

169. The Government of the Netherlands Antilles, assisted by the Social Security Bank (Sociale Verzekerings Bank or SVB) is working towards general health insurance coverage. The first steps were taken in 1996 when the SVB started insuring all family members of employees and in 2009 when all people aged 60 and over became entitled to health insurance.

170. Sections 1 and 9 of the Sickness Insurance Act, which were amended in order to make people aged 60 and over eligible for insurance, entered into force in December 2009. Up to then, insurants lost their rights when they reached the age of 60. With this amendment, both former and new insurants may qualify for the 60+ insurance. Pending final approval, the Parliament of the Netherlands Antilles gave the health minister the go-ahead to start implementing the amendment in order to provide coverage for this vulnerable group.

171. People aged 60 and over who are not insured elsewhere and are residents of the Netherlands Antilles are eligible for the insurance. The premium is 10.4 per cent of their income to a maximum stipulated in the Act. The premium can either be withheld from the old-age pension or paid by direct debit. Persons who settle on the islands are also eligible for this insurance.

Question 31. Please provide information on any measures taken to reduce the number of children and adolescents on waiting lists for mental health services in the Netherlands. Please also indicate details of the proportion of public expenditure spent on mental health care.

The Netherlands

172. The tables below show waiting times (in weeks) for the calendar years 2006, 2007 and 2008. The percentage by which they exceed the targets for waiting times in the health-care sector is shown in brackets.

| <i>Waiting times child and youth</i> | <i>Waiting period</i> | | | | | |
|--|-----------------------|------|-------------------|------|------------------|------|
| | <i>Referral</i> | | <i>Assessment</i> | | <i>Treatment</i> | |
| 2005 | 5 | (46) | 7 | (43) | 6 | (29) |
| 2006 | 6 | (51) | 6 | (41) | 7 | (32) |
| 2007 | 6 | (51) | 7 | (44) | 7 | (32) |

| <i>Trend in waiting list numbers</i> | <i>2007</i> | <i>2008</i> | <i>2009</i> |
|--------------------------------------|-------------|-------------|-------------|
| Child and youth | 19 900 | 26 900 | 28 800 |

173. Expenditure on youth mental health care was estimated to be some €530 million in 2008; total expenditure on mental health was estimated at €5.1 billion.

Measures

174. Treatment capacity in youth mental health care has been expanded significantly since 2005, with growth percentages of 5 to 25 per cent a year. The capacity of the sector also grew, from almost 88,000 mental health treatments for children and adolescents a year in 2005 to some 147,000 in 2008.

175. The Breakthrough projects in youth mental health care show that smarter organization of care can significantly help tackle waiting lists. The projects were launched

in March 2008, with half their funding from the Ministry of Health, Welfare and Sport's Health Care Innovation Platform. Youth mental health care institutions supplied the other half. The projects resulted in a major reduction in waiting times. In a number of cases, waiting lists were abolished entirely. A second round of projects has therefore been launched. The Minister of Health, Welfare and Sport and the Minister for Youth and Families will again make extra funding (up to €200,000) available for institutions willing to take up the challenge of working more effectively with the same resources. The second round began in late 2009.

Question 32. Please provide information relating to the legislative framework governing abortions in the Netherlands Antilles, and on whether there are any differences between such legislative framework and the prevalent practice.

The Netherlands Antilles

176. There are provisions of the Criminal Code, listed under the heading 'Offences against life', under which abortion is an offence in the Netherlands Antilles. In the Netherlands, the Termination of Pregnancy Act specifies the circumstances and conditions under which exceptions may be made to the ban on performing abortions. This Act is not applicable to the Netherlands Antilles, and there is no comparable legislation there. In practice, however, contraventions of the ban on abortion are not usually prosecuted. In Curaçao, doctors work in accordance with a protocol drawn up by the medical profession itself, and the Antillean Health Inspectorate supervises responsible, safe performance of abortions. Only one case is known in which disciplinary proceedings were instituted, and they centred on the method used to perform the abortion, rather the abortion itself.

177. Since abortion is illegal, there are no official records on the number performed in the Netherlands Antilles. According to estimates, 1000 to 1500 abortions are performed in Curaçao every year.

178. Abortion will remain illegal in the revised Criminal Code. However, some amendments have been made to the text, the most important of which is the addition of the concept of 'unlawfulness' to the definition of the offence. This creates scope for immunity from criminal liability on the grounds that the doctor in question was acting in accordance with the rules applicable to the practice of his profession. This is the case if, for example, a doctor has to terminate a pregnancy to save the life of the mother.

179. What is more, under the revised Criminal Code, medical professionals will no longer be liable to higher penalties, since it is undesirable that someone who knows what he is doing should be punished more severely for performing an abortion than a person who does not have the necessary training and skills, and who is more likely to cause serious harm to the woman undergoing the procedure.

Articles 13 and 14 – Right to education

Question 33. Please provide details on the proportion of public expenditure spent on primary and secondary education, disaggregated on an annual basis, according to public and private schools.

The Netherlands

180. The Netherlands does not fund private schools. According to Education at a Glance – OECD indicators 2009 7.8 per cent of public spending in the Netherlands goes on primary, secondary and post-secondary education, other than tertiary education, provided at publicly funded schools.

| | <i>Public expenditure¹ on education as a percentage of total public expenditure</i> | | | | | <i>Public expenditure¹ on education as a percentage of GDP</i> | | | | |
|----------------|--|---------------------------|---|---|---|---|---------------------------|---|---|---|
| | 2006 | | 2000 | | 1995 | 2006 | | 2000 | | 1995 |
| | <i>Primary, secondary and post-secondary non-tertiary education</i> | <i>Tertiary education</i> | <i>All levels of education combined</i> | <i>All levels of education combined</i> | <i>All levels of education combined</i> | <i>Primary, secondary and post-secondary non-tertiary education</i> | <i>Tertiary education</i> | <i>All levels of education combined</i> | <i>All levels of education combined</i> | <i>All levels of education combined</i> |
| OECD countries | | | | | | | | | | |
| OECD average | 9.0 | 3.1 | 13.3 | 12.9 | 12.0 | 3.5 | 1.3 | 5.3 | 5.1 | 5.3 |
| EU19 average | 8.1 | 2.9 | 12.2 | 13.1 | 10.7 | 3.6 | 1.3 | 5.4 | 5.1 | 5.3 |

Source: OECD (Education at a Glance 2009).

The Netherlands Antilles

181. Education is funded in the Netherlands Antilles by both the national government and the governments of each individual island. Expenditure at national level is related to policy, legislation and supervision. Both public and private schools receive their funding through the executive council of each island territory.

Expenditure on foundation-based education: islands of the Netherlands Antilles

| Island | Year | 2003 | 2004 | 2005 | 2006 | 2007 |
|-------------------|--------------------------------|------------|------------------|------------|------------|------------|
| | | Bonaire | Public-authority | 3 989 263 | 3 739 152 | 3 321 679 |
| | Private | 5 285 693 | 5 084 083 | 5 658 016 | 5 824 513 | 6 065 484 |
| | Joint expenditure ³ | 2 129 441 | 2 338 166 | 1 703 333 | 2 083 063 | 2 188 002 |
| Curaçao | Public-authority | 11 054 604 | 23 053 453 | 22 825 912 | 24 077 229 | 25 310 434 |
| | Private | 29 985 813 | 52 959 559 | 55 465 251 | 60 034 972 | 64 636 119 |
| Saba ⁴ | | 1 097 606 | 823 366 | 997 437 | 1 428 825 | 1 341 604 |
| St Eustatius | Public-authority | 1 652 046 | 1 873 357 | 1 271 558 | 8 024 388 | 1 705 630 |
| | Private | 1 367 551 | 1 484 950 | 1 507 535 | 1 635 309 | 1 895 372 |
| St Maarten | No data | | | | | |

Source: Directorate of Education, Sports and Culture.

Expenditure on secondary education: islands of the Netherlands Antilles

| Island | Year | 2003 | 2004 | 2005 | 2006 | 2007 |
|--------|------|---------|------------------|-----------|-----------|-----------|
| | | Bonaire | SGB ⁵ | 6 801 253 | 7 276 615 | 7 562 097 |

³ Expenditure relates to both primary and secondary schools, both public-authority and private.

⁴ Saba has only one (private) primary school.

⁵ Bonaire has only one combined school for pre-vocational education/senior secondary education/and

| Island | Year | | | | | |
|---------------------------|------------------|------------|------------|------------|------------|------------|
| | | 2003 | 2004 | 2005 | 2006 | 2007 |
| Curaçao | Public-authority | 5 582 698 | 13 082 936 | 18 757 432 | 24 457 430 | 25 806 324 |
| | Private | 17 186 071 | 35 252 148 | 47 748 388 | 49 554 694 | 53 696 267 |
| Saba ⁶ | | 1 391 594 | 1 382 635 | 1 576 463 | 1 552 000 | 1 931 540 |
| St Eustatius ⁷ | Public-authority | 2 525 941 | 2 377 860 | 2 471 856 | 2 893 620 | 2 399 215 |
| St Maarten | No data | | | | | |

Source: Directorate of Education, Sports and Culture.

National expenditure on foundation-based and secondary education

| | 2003 | 2004 | 2005 | 2006 | 2007 |
|--|--------------|--------------|--------------|--------------|--------------|
| | 5 300 899.25 | 4 060 340.36 | 4 697 507.36 | 6 869 718.71 | 4 302 962.86 |

(All figures are in ANG (Netherlands Antillean guilders).)

Source: Directorate of Education, Sports and Culture.

Question 34. Please provide information on the access to school for children lacking documentation and, in particular, unaccompanied children.

The Netherlands

182. All children under the age of 18 are obliged to attend school. Children under this age who do not have legal residence must therefore also go to school. Once students reach 18, they may complete the course they are currently attending. However, under aliens policy this does not confer any rights of residence. Once students switch to another school or course of study, they forfeit their right to complete their current course.

183. Schools receive the normal funding necessary for this type of education. Additional funding is available for newcomers, providing the necessary evidence (of nationality and length of time resident in the Netherlands) is provided. No exception is made to this rule in the case of illegal aliens.

184. The principal rule is that education is governed by aliens policy and the conditions stipulated are needed to prevent abuse and misuse of the system. In practice, while the necessary evidence is indeed available in some cases, in others it is not, for understandable reasons. Such cases have been regulated as well as possible within the statutory framework and current Government policy.

The Netherlands Antilles

185. In accordance with the National Ordinance on Compulsory Education, all children between the ages of 4 and 18 are required to attend school. No distinction is made for the children of illegal residents. Children may also be eligible for support in the form of food, clothing and transport, depending on their socioeconomic circumstances.

pre-university education (S.G.B.).

⁶ Saba has only one (private) secondary school.

⁷ St Eustatius has no school for private secondary education.

Question 35. Please provide information on the adequacy and effectiveness of support for children with disabilities aimed at enabling them to participate fully in, and complete, primary, secondary and higher education.

The Netherlands

Educational support

186. There are various structures in primary and secondary education for pupils who need extra support, whether it be on a permanent or a temporary basis. This extra care and support takes the form of local educational support services for pupils with “minor” problems, and national educational support services for pupils with severe disabilities or disorders.

187. Various options are open to pupils who need extra support at school because of a disability/disorder/learning difficulties etc. Local educational support is available in primary and secondary education, in the form of placement in a special school for primary education and of learning support or practical training for secondary pupils. This type of support is intended for pupils with relatively minor learning difficulties and social/emotional problems.

188. Pupils with more severe disabilities/disorders may be referred to a special school, or may attend a regular school with a personal budget, which includes resources for the regular school and for peripatetic supervision by special school staff.

Support for gifted pupils

189. The Ministry of Education, Culture and Science takes a structural approach to supporting gifted pupils, since the experiences of networks, gifted pupil information desks for primary education (National Institute for Curriculum Development in Enschede) and secondary education (Protestant Educational Advisory Centre in Amersfoort), and of a number of pilot projects funded by the Ministry, have shown that schools require extra help with guidance, methods and organization in order to properly support such pupils.

190. In 2004 the Ministry of Education, Culture and Science commissioned educational development organization CPS to start setting up a national network of 25 schools to provide extra guidance and special teaching for gifted pupils.

Support for children with behavioural problems

- The Rebound scheme helps pupils who for behavioural and safety reasons are not able to attend a regular school.
- The Rebound scheme offers pupils a compulsory programme (at another location, during — and sometimes also after — school hours) which allows them to make a new start within a predefined period of a few months, with a view to them continuing their school career in regular secondary education. The scheme not only provides teaching, but also other forms of guidance, usually targeting the pupil’s behaviour. There is also a focus on the family and on how pupils spend their leisure time.
- An attempt is made to change the pupil’s behaviour, restore relations, improve their attitude to learning and help them catch up.
- Extra measures can also be taken (e.g. youth care services).
- The Rebound scheme is a temporary measure which is designed to guide pupils back into regular education within three to four months.

- The pupil remains registered at his or her school.

Higher education

191. The obstacles faced by students with disabilities in higher education have been the subject of political attention for several years now. In response, the Ministry of Education, Culture and Science launched a special programme (Impuls) in 2004 to tackle the relatively high dropout rates among disabled and chronically ill students.

192. Since 2005, studies have been commissioned to obtain more information on the scale of the problems and the impact of the measures taken. The expertise centre on studying with a disability, handicap + studie, was given a grant in 2006 to implement a communication strategy on the issue, providing information to students and institutions on various aids and facilities. The strategy also involved activities designed to create a more positive image and to provide information on the Equal Treatment of Disabled and Chronically Ill People Act. 2006 also saw the launch of a plan of action designed to reduce obstacles for students with disabilities in higher education, the aim of which was to improve institutions' policies in this area. In 2009 the Education Inspectorate drew up a report on the accessibility of higher education for students with disabilities. It can be concluded on the basis of the study that the necessary efforts have been made to improve conditions in higher education, both at political and policy level, and at institutional level.

The Netherlands Antilles

193. There are various schools for special education in the Netherlands Antilles. They include schools for children with (severe) learning disabilities, children with learning and behavioural difficulties, children with severe behavioural difficulties, and hearing-impaired children. There is no separate school for children with a minor visual impairment. Children with less serious problems or impairments are encouraged to attend mainstream schools.

Article 15 – Cultural rights

Question 36. Please provide information on the enjoyment of the right to participate in, and benefit from, cultural life, such as access to cultural activities and cultural goods and services, especially by disadvantaged and marginalized individuals and groups in society, including persons with disabilities, older persons, immigrants and persons from ethnic, religious and linguistic minorities, in line with the Committee's general comment No. 21 (2009) on the right of everyone to take part in cultural life.

The Netherlands

194. Art and cultural facilities are in principle accessible to all. The Netherlands has no targeted cultural policies, for people with a disability, for example. It does however have general guidelines on access to public buildings, which include libraries, theatres, museums etc.

195. The Netherlands has no specific cultural policy on ethnic minorities. Institutions in the sector (such as the Dutch Performing Arts Association) and the sector organizations (such as the Netherlands Institute for Heritage) will submit a proposal in 2010 detailing the potential for effective dissemination of knowledge on cultural diversity. This will be based on a cultural diversity code to be developed in 2010. The code will include periodic monitoring to provide information on the diversity of the culture sector, and recommendations as to how it can be enhanced.

196. SICA, the Dutch Centre for International Cultural Activities, will work with the cultural funds and sector institutions to develop a proposal on the international dimension

of cultural diversity related to the countries of origin of different ethnic groups in the Netherlands, and to countries in the Mediterranean and Middle East region. This might, for example, involve debates or lectures linked to international visitors' programmes. The aim is to expose the sector to the latest developments in the international field of culture, and encourage reflection on these developments in the Netherlands.

197. The Cultural Participation Fund has also been asked to come up with a cultural diversity scheme to support activities with national impact next year, in consultation with other funds. The scheme will:

- Focus on promoting cultural diversity in active cultural participation
- Offer scope for activities based on three themes: programme, audience and organization
- Give priority to activities that tie in with the international dimension of cultural diversity

198. Primary schools receive €10.90 per pupil per year for cultural activities. From the 2008–2009 school year all secondary pupils (aged 12–18) will be given a culture pass, with a credit of €15 to spend on cultural activities. The pass will also provide a range of discounts at cultural institutions. The scheme will cost €15 million a year. Pupils will also be able to use the pass outside school hours.

The Netherlands Antilles

199. Cultural activities organized in the Netherlands Antilles are always open to the entire population. No one is excluded on the grounds of race, language, nationality, age, religion, migration status, or physical or mental disability.

200. The islands of the Netherlands Antilles each have a rich history, from which a highly varied culture has emerged. On Bonaire, BONAI (the Bonaire Archaeology Institute) runs an after-school programme for young people in the fields of archaeology, anthropology, biology and museology. BONAI also helps raise people's awareness of the need to preserve the cultural heritage. Bonaire's arts institute, Artebon, aims to support and promote the arts on the island by providing space to hold exhibitions and give courses, promoting international exchanges and supporting disciplines such as the visual arts, music, literature, theatre, dance, the audiovisual arts and arts and crafts.

201. Curaçao's arts institute (Kas di Kultura) also organizes various activities for the general public. During the Kulturismo festival which is held for two weeks every year, many activities, including exhibitions, presentations, dance performances and workshops, are organized to promote both tourism and the arts on Curaçao. The various ethnic groups living in Curaçao also organize cultural events which everyone is welcome to attend.
