

NETHERLANDS

CoE member State since **5 May 1949**

Number of CoE Conventions ratified (as of 1 March 2007): **132 (out of 200)**

Number of CoE Conventions signed (as of 1 March 2007): **22**

I. PLURALISTIC DEMOCRACY¹

A. FREE AND FAIR ELECTIONS

System of government: **constitutional monarchy**

Last general elections: **November 2006**

Next general elections: **2010**

B. LOCAL AND REGIONAL DEMOCRACY

Last municipal elections: **March 2006**

Next municipal elections: **2010**

European Charter on Local Self-Government ratified on **20 March 1991**

Last **Congress of Local and Regional Authorities** monitoring report: May 2005 [CG(12)16 Partie II], on local and regional democracy in the Netherlands (no resolution nor recommendation).

Extract of CG(12)16 Part II:

"Conclusion

1. Context and limits of the present report

For the comprehension of the present report it seems necessary to underline that, on account of its origin, it can not give a complete evaluation of local and regional self-government in the Netherlands. It focuses on current problems which, seen as isolated issues, do not characterise the Dutch culture of self-government in general. On the contrary, the Dutch local administration has developed its own solutions, often interesting and exemplary for other countries. Their description and evaluation have not been the aim of this report, since it is limited to two essential and current problems which, seen

¹ The non-governmental organisation Freedom House gives to Netherlands a score of 1 for political rights as well as for civil liberties (with 1 representing the most free and 7 the least free. The rating shows a general opinion based on enquiry results).

isolated, may appear to be phenomena of a crisis that, as a general fact, is not to be stated. Indeed, the problems may be discussed and resolved, improving a well working local and regional administration.

2. The election of mayors

The statements on the introduction of elected mayors, culminating in long term discussions, may appear as interferences in an old, traditionally legitimated system of royal appointment. It can neither be judged simply undemocratic, nor has it resisted to transformations in direction of an elective process. But it is just this oscillating character and this transformation between Royal appointment and democratic election which shows the necessity of a better political legitimacy and gives the impression of a half step, leaving in secret essential parts of the appointment procedure and reserving the possibility of overruling democratic decisions. For which cases shall that be possible? The limitation and thus the character of exceptions from the democratic procedure are not clear. Therefore the consequence of the system asks for a democratic regulation, either of an election by the council, or by the citizens. Only a solution of this kind would be in accordance with a modern-day local democracy in the sense of Congress Recommendation 113 (2002).

Nevertheless it is incontestable that such a change heavily affects the system of administration, self-government and political culture of the Netherlands. That is why the present report, underlining the consequent character of the change, argues in favour of a prudent and moderate transition.

3. The real estate tax reform

With regard to local finance, the conflicts of interest are obvious and not a special Dutch problem. But the situation of the Netherlands is characterised, on the one hand, by the developed entanglement between the different tiers of government and between the local and regional communities, and on the other hand by a very small tax power of local (and regional) communities. In this situation any decrease of local tax power raises difficult problems. Under the European Charter of Local Self-Government, it is not only the amount of own resources and the freedom to exercise policy discretion of local authorities which is problematic, but the tax power which is at a very low level by European standards, as well. Hence reducing it by abolishing the user's real estate tax on users of dwellings would bring the Netherlands in conflict with obligations of public international law."

Last report by the **Steering Committee on Local and Regional Democracy (CDLR)**:

Structure and operation of local and regional democracy: Netherlands: Situation in 1998:

The CDLR comprises representatives of the national ministries responsible for local and regional authorities. This study presents the legal and institutional framework of local and

regional authorities in the Netherlands as well as their operation, including their competencies and financial and human resources.

II. RULE OF LAW

A. *VENICE COMMISSION*

No specific opinion on the Netherlands.

B. *FUNCTIONNING OF THE JUDICIARY*

On **5 October 2006**, the European Commission for the Efficiency of Justice (CEPEJ) published its report on the evaluation of European judicial systems.

Extract of the press release of 5 October 2006:

"The report, comprising data for 45 European states, provides the Council of Europe with a real snapshot of justice in Europe. This is a unique process in Europe. Collecting and analysing these essential data should enable decision-makers and the judicial community to understand the major trends in judicial organisation, pinpoint the difficulties and help implement reforms to improve the efficiency of justice.

The report gives a comparative description of public spending on the judicial system, the relationship between judicial systems and their users, and the organisation of courts and of judicial staff. The data collected show, for example, that the legal aid system seems very limited in certain member states considering that it is a requirement of the European Court of Human Rights. It is also noted that few member states have definite, accurate data on the duration of judicial proceedings, although failure to observe reasonable time is the principal argument in the cases brought before the Strasbourg Court. The study also shows that there are wide geographical disparities in Europe as regards measures to protect vulnerable persons."

It emerges from this report that:

- the **total budget** allocated to the judiciary system (courts, public prosecution and legal aid) in the Netherlands in 2004 was **1,476,265,000 euros**;
- the **number of Professional judges on a full-time basis** in the Netherlands in 2004 was **2004**, that means 12.3 for 100,000 inhabitants;
- the **number of public prosecutors** in 2004 in the Netherlands was **598**, that means 3.7 for 100,000 inhabitants.

C. THE FIGHT AGAINST CORRUPTION AND ORGANISED CRIME²

Civil law convention on corruption not signed

Criminal law Convention on corruption signed on **29 June 2000**, ratified on **11 April 2002**, **Additional Protocol** signed on **26 February 2004**, ratified on **16 November 2005**.

Extract of: **Second Evaluation Round: evaluation report on the Netherlands adopted by GRECO at its 25th Plenary Meeting** [Strasbourg, 10-14 October 2005, Greco Eval II Rep(2005)2]:

1. Conclusions

"In general, the system in place in the Netherlands aimed at depriving offenders of the proceeds of corruption is efficient, with a comprehensive legal framework and a set of institutions responsible for dealing with various aspects of the matter. Legislation in this area is supplemented by the new "Directive on Special Confiscation", issued in 2005. Value confiscation is possible and the confiscation of instrumentalities/proceeds found in the possession of a third party is also addressed. Moreover, an efficient system providing for interim measures (search, seizure, mandatory hand-over of documents and records) is also in place. Notwithstanding this generally positive consideration of the regime, the system may still be improved notably by promoting a wider use of the existing seizure and confiscation schemes and by increasing the level of the fine applicable to Article 177a and 178 paragraph 1 of the Criminal Code in order to place these provisions - dealing with some specific cases of corruption - within the overall system of provisional measures, special criminal financial investigation and, subsequently, confiscation.

As regards public administration and corruption, despite the fact that in the Netherlands corruption is not considered to be a major problem, the public authorities remain, however, aware of the potential dangers of corruption and consider that it is important to adopt a continuous pro-active and preventive attitude with regard to integrity in public organisations. A number of government agencies have been adopting initiatives designed to prevent corruption and heighten awareness of the threats it incurs for public administration. These actions are aimed at enhancing integrity standards at all levels of public administration and at furthermore limiting opportunities for misbehaviour/wrongdoing of civil servants. However, further measures are needed in order to establish a set of clear standards for preventing possible conflicts of interest. As far as the issue of legal persons and corruption is concerned, the Dutch legislation on corporate liability appears to meet the standards of the Article 18 of the Criminal Law Convention on Corruption. On the other hand, the existing system of deprivation of rights and of sanctions for legal persons need to be revised.

² The Netherlands are in 9th position with a score of 8.7 in the "**2006 Corruption Perceptions Index**" launched by the non-governmental organisation *Transparency International* (it scores countries on a scale from zero to ten, with zero indicating high levels of perceived corruption and ten indicating low levels of perceived corruption; for instance, Finland, Iceland and New Zealand share the top score of 9.6 while Haiti is in 163rd position with the lowest score at 1.8).

In view of the above, GRECO addresses the following **recommendations** to the Netherlands:

- i. to take measures to promote the wider use of seizure/confiscation schemes (paragraph 25);
- ii. to increase the level of the fine in relation to Articles 177a and 178 paragraph 1 of the Criminal Code from fourth to fifth category in order to place these provisions within the overall system of provisional measures, special criminal financial investigation and, subsequently, confiscation (paragraph 26);
- iii. to issue guidelines for use by civil servants when confronted with situations where personal/financial interests or activities may lead to a question of conflict or partiality with regard to the civil servant's actual duties and responsibilities (paragraph 48);
- iv. to make sure that all public organisations adopt their own code of conduct for civil servants (paragraph 49);
- v. to ensure that the regime of disqualification from exercising specific professions is effective in practice in respect of persons acting in a leading position in legal persons (paragraph 66);
- vi. to consider to increase the penal sanctions for legal persons in order to be sure that the sanctions are effective, proportionate and dissuasive (paragraph 68).

Moreover, GRECO invites the authorities of the Netherlands to take account of the **observation** (paragraph 27) in the analytical part of this report.

Finally, pursuant to Rule 30.2 of the Rules of procedure, GRECO invites the authorities of the Netherlands to present a report on the implementation of the above-mentioned recommendations by 30 April 2007."

2. Observations

"[...]

27. As for money laundering, the GET appreciates the effective current reporting system which includes an elaborate and comprehensive set of indicators. Unusual transactions are sent by the reporting entities to the MOT (the Dutch FIU) which processes them (using the assistance of the BLOM - specialised investigative police unit) and sends the suspicious transactions, whenever necessary, to the Police. The GET was informed that the Police (including the BLOM) are overburdened by the large number of reports they receive and are unable to deal effectively and timely with all of them. As regards the BLOM, it is worth remembering that it is vested with a multitude of tasks, including making analyses and developing cases for the Public Prosecution Service and other Police units. The situation could be improved by assigning to the Police units more

specialised officers to deal with the reports. Additionally the specific, regular training within the Police should be continued. In view of the above, *the GET observes that more specially trained staff should be assigned to the relevant police units, in particular the BLOM, to process suspicious transaction reports. The staff concerned should also be provided with appropriate training on anti-money laundering procedures and techniques. [...]*"

D. THE FIGHT AGAINST MONEY LAUNDERING

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime of 1990 ratified on **10 May 1993**

Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the financing of terrorism (revised) signed on **17 November 2005**

GAFI's Presidency had appointed the Netherlands member of the MONEYVAL for a period of 2 years (2005-2006).

III. PROTECTION OF HUMAN RIGHTS³

A. ACTIVITIES OF THE COMMISSIONER FOR HUMAN RIGHTS

No report on the Netherlands

B. EUROPEAN CONVENTION ON HUMAN RIGHTS

ECHR ratified on **31 August 1954**

"Declaration contained in a letter from the Permanent Representative of the Netherlands, dated 24 December 1985, registered at the Secretariat General on 3 January 1986 - Or. Engl.

The island of Aruba, which is at present still part of the Netherlands Antilles, will obtain internal autonomy as a country within the Kingdom of the Netherlands as of 1 January 1986. Consequently the Kingdom will from then on no longer consist of two countries, namely the Netherlands (the Kingdom in Europe) and the Netherlands Antilles (situated in the Caribbean region), but will consist of three countries, namely the said two countries and the country Aruba.

As the changes being made on 1 January 1986 concern a shift only in the internal constitutional relations within the Kingdom of the Netherlands, and as the Kingdom as such will remain the subject under international law with which treaties are concluded, the said changes will have no consequences in international law regarding to treaties

³ The Netherlands share the 1st position (together with Finland, Iceland and Ireland) with a score of 0,50 in the **"Worldwide press freedom index 2006"** made by the non-governmental organisation *Reporters Without Borders* (in comparison North Korea is on the 168th and last position with a score of 109).

concluded by the Kingdom which already apply to the Netherlands Antilles, including Aruba. These treaties will remain in force for Aruba in its new capacity of country within the Kingdom. Therefore these treaties will as of 1 January 1986, as concerns the Kingdom of the Netherlands, apply to the Netherlands Antilles (without Aruba) and Aruba.

Consequently the treaties referred to in the annex, to which the Kingdom of the Netherlands is a Party and which apply to the Netherlands Antilles, will as of 1 January 1986 as concerns the Kingdom of the Netherlands apply to the Netherlands Antilles and Aruba.

List of Conventions referred to by the Declaration

(.)

Convention for the Protection of Human Rights and Fundamental Freedoms.

(.)

[**Note by the Secretariat:** The current situation of territories for whose international relations the Netherlands are responsible is the following:

1. Application of the Convention:

Netherlands Antilles: since 1 September 1979.

Aruba: since 1 January 1986.

2. Recognition of the right of individual petition before the European Court (and, until the entry into force of Protocol No. 11, the Commission) of Human Rights:

Netherlands Antilles: since 1 September 1979 until further notice.

Aruba: since 1 January 1986 until further notice.]

Period covered: 1/1/1986 -

The preceding statement concerns Article(s): 56"

Protocol No. 6 ratified on **25 April 1986**

Protocol No. 12 ratified on **28 July 2004**

Protocol No. 13 ratified on **10 February 2006**

Protocol No. 14 ratified on **2 February 2006**

Out of a total of 1,105 judgments delivered by the Court in 2005, there are **10** concerning the Netherlands of which **7** gave rise to a finding of at least one violation and **1** gave rise to a finding of no violation.

Out of a total of 1,560 judgments delivered by the Court in 2006, there are **7** concerning the Netherlands of which **6** gave rise to a finding of at least one violation and **1** gave rise to a finding of no violation.

Out of a total of 35,402 pending case before the Court in 2005, **412** concerned the Netherlands.

Out of a total of 89,887 pending case before the Court on 1 January 2007, **544** concerned the Netherlands.

Resolutions adopted by the Committee of Ministers in 2006: **1**

No interim Resolution

Resolutions adopted by the Committee of Ministers in 2007 (as of 1 March 2007): **0**

C. EUROPEAN CONVENTION FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT (CPT)

Convention ratified on 12 October 1988, additional protocols 1 and 2 ratified on 23 February 1995

Publication of the last report: **November 2002**

Last country visit: **February 2002**

Press release of 15 November 2002:

"The authorities of the Kingdom of the Netherlands have made public the report of the European Committee for the Prevention of Torture (CPT) on the visits carried out in February 2002 to the Kingdom in Europe and to the Netherlands Antilles.

In the Kingdom in Europe, the CPT received no allegations of ill-treatment by law enforcement officials. Some recommendations were made regarding conditions of detention in police establishments (e.g., concerning access to outdoor exercise for remand prisoners) and fundamental safeguards for persons in police custody (as regards, in particular, access to a lawyer during the initial period of detention for interrogation purposes). The CPT reviewed the situation at the Extra Security Prison (EBI) in Vught; it recommended measures in order to prevent inter-prisoner violence, improve the regime and define more precisely the conditions under which placement in this establishment may be extended. Other recommendations were made as regards the treatment of persons suspected of carrying drugs *in corpore*, held at Bloemendaal Special Detention Facility.

During the visit to the Netherlands Antilles, the CPT reviewed the situation at Bon Futuro Prison in Curacao and visited, for the first time, Pointe Blanche Prison and the Central Police Station in Sint Maarten. The conditions of detention in that police station were unacceptable, and the authorities made a commitment to take measures immediately to remedy this situation. At Bon Futuro Prison, the material conditions had improved, but a severe shortage of staff had numerous negative consequences; in particular inter-prisoner violence and the absence of a regime. Conditions at Pointe Blanche Prison were generally more favourable, despite critically low staffing levels.

The report is available on the CPT's website: <http://cpt.coe.int>"

Next country visit in: 2007

D. FRAMEWORK CONVENTION FOR THE PROTECTION OF NATIONAL MINORITIES

Convention signed on 1 February 1995, ratified on 16 February 2005, entered into force on 1 June 2005

"Declaration contained in a Note verbale from the Permanent Representation of the Netherlands deposited with the instrument of acceptance, on 16 February 2005

The Kingdom of the Netherlands will apply the Framework Convention to the Frisians.

Period covered: 1/6/2005 -

The preceding statement concerns Article(s): -

Declaration contained in a Note verbale from the Permanent Representation of the Netherlands deposited with the instrument of acceptance, on 16 February 2005

The Government of the Netherlands assumes that the protection afforded by Article 10, paragraph 3, does not differ, despite the variations in wording, from that afforded by Article 5, paragraph 2, and Article 6, paragraph 3 (a) and (e), of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Period covered: 1/6/2005 -

The preceding statement concerns Article(s): 10

Declaration contained in the instrument of acceptance deposited on 16 February 2005

The Kingdom of the Netherlands accepts the Framework Convention for the Kingdom in Europe.

Period covered: 1/6/2005 -

The preceding statement concerns Article(s): 30"

No opinion by the Advisory Committee to date

No CM resolution on the implementation of the Framework Convention to date

State report due since: 1 June 2006

E. EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Convention signed on **5 November 1992**, ratified on **2 May 1996**

Last Periodical State report submitted on **26 May 2003** [MIN-LANG/PR(2003)6]

Last Committee of Experts' evaluation report adopted on **17 June 2004**
[ECRML(2004)8]

Last Committee of Ministers' Recommendation adopted on **15 December 2004**
[RecChL(2004)7]

Last biennial report of the Secretary General to the Parliamentary Assembly: **3 September 2005** [[Doc. 10659](#)]

F. EUROPEAN COMMISSION AGAINST RACISM AND INTOLERANCE (ECRI)

Last report by ECRI: the second report on the Netherlands was adopted on 15 December 2000 and made public on **13 November 2001**

Extract of document **CRI(2001)40:**

"Executive summary:

Over recent years, the Netherlands has taken positive steps to counter racism and discrimination, including: initiatives aimed at improving the enforcement of existing criminal law provisions in the field of combating racism and discrimination, for example through the establishment of a National Discrimination Expertise Centre within the Office of the Public Prosecutor; action to counter the activities of extremist groups resorting to racially inflammatory propaganda, including through the establishment of a hotline for discrimination-related offences on the Internet; and initiatives to increase representation of ethnic minorities in the police service.

Problems of racism, xenophobia and discrimination persist, however and the labour market is one of the areas where discrimination still appears to be most widespread. The

effectiveness of existing criminal law aimed at combating racism and discrimination is limited, notably due to difficulties in the enforcement of the relevant provisions. Of concern is also the general climate concerning asylum seekers and immigrants, sometimes resulting in manifestation of hostility vis-à-vis these groups of persons.

In the following report, ECRI recommends to the Dutch authorities that further action be taken to combat racism, xenophobia, discrimination and intolerance in a number of areas. These recommendations cover, *inter alia*: the need to take further action to improve durable participation of persons of ethnic minority background in the labour market, including in the public sector, *inter alia* through an improved use of existing civil law provisions; and the need to improve the effectiveness of the implementation of the criminal law provisions in force in the field of combating racism and discrimination, notably addressing certain aspects related to enforcement. Emphasis is also put on the need to ensure that the police service reflect, in a durable manner, the multicultural reality of the Dutch society."

Next visit to the country in the framework of the preparation of the third report on the Netherlands: March 2007

G. SOCIAL RIGHTS

European Social Charter of 1961 signed on **18 October 1961**, ratified on **22 April 1980**, entered into force on **22 May 1980**

European social Charter (revised) signed on **23 January 2004**, ratified on **3 May 2006**, entered into force on **1 July 2006**

Additional Protocol to the European Social Charter Providing for a System of Collective Complaints signed on **23 January 2004**, ratified on **3 May 2006**, entered into force on **1 July 2006**

Every year the states parties submit a report indicating how they implement the Charter in law and in practice. Each report concerns some of the accepted provisions of the Charter: in odd years the report concerns the «hard core» provisions (Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20; States must have accepted at least 6 of these 9 Articles); in even years half of the other provisions.

Extract of the website of the European Social Charter:

"Reports

Between 1982 and 2006 the Netherlands submitted 19 reports on the application of the European Social Charter. As regards the Netherlands Antilles 7 reports have been submitted. As regards Aruba 2 reports have been submitted. The 19th report on part of the non-core provisions of the Charter was submitted by the Netherlands (Kingdom in

Europe) on 20/07/2006. The next report on Articles 1, 9, 10, 15, 18, 20, 24, 25 of the revised Charter should be submitted before 31/10/2007.

The Charter in domestic law

Automatic incorporation into domestic law.

The situation of the Netherlands's with respect to the application of the Charter is the following as of 1 April 2006:

Examples of progress achieved following conclusions or decisions of the ECSR

The Netherlands (Kingdom in Europe)

Health

- ▶ 1. Extension of maternity leave from 12 to 16 weeks (Act of 22 February 1990).
- 2. Entitlement of women working in private households and in the public health services for less than three days a week to maternity leave and maternity benefit during at least sixteen weeks (2000 Self-employed Persons Disablement Benefits Act - WAZ).

Non-discrimination (Nationality)

- ▶ Entitlement of migrant workers to be treated not less favourably than nationals as regards legal proceedings (Law of 8 March 1980).

Non-discrimination (Sex)

- ▶ Adoption in 1994 of a general Act on equal treatment covering all forms of discrimination – Extension of the prohibition of discrimination between men and women to categories of persons eligible for pensions, to pension rules and the implementation of pensions schemes (Amendment of the Equal Opportunities Act (WGB), in 1998).
- ▶ Prohibition of dismissing an employee because he has brought legal or extra judicial proceedings to obtain equal remuneration (Act on "Reparation" of 1989).
- ▶ Entitlement of unmarried parents to exercise joint parental authority – Maintenance of joint parental authority even if the parents separate (Amendments to the Civil Code in 1995 and 1998).

Employment

- ▶ Repeal of Article 6 of the Exceptional Decree of 1945 on professional relations pursuant to which a worker had to obtain prior authorisation in order to terminate his employment (Act on Flexibility and Security of 1999).

- ▶ Granting of the right to a one month period of notice of dismissal to all workers (including part-time workers and those working from home) regardless of their status (Act on Flexibility and Security entering into force in 1999).
- ▶ Abolition of closed shop clause in the print workers collective agreement following collective bargaining negotiations.
- ▶ Reduction from 100 to 50 employees of the threshold from which a works council must be created in the workplace (Amendments to the WOR in 1998).
- ▶ Authorisation of employees and workers, national insurance and subsidised institutions to freely conclude collective agreements regarding their conditions of employment (Repeal in 1995 of the WAGGS).

The Netherlands Antilles and Aruba

Employment

- ▶ Prohibition of dismissal during pregnancy or maternity leave, or because of an employee's marriage or membership of a trade union (Amendments to the Civil Code in 2000).

Cases of non-conformity

The Netherlands (Kingdom in Europe)

Health

- ▶ *Article 2§4 – right to compensatory time off in dangerous occupations*

There is no provision for reduced working hours or additional paid holidays in dangerous and unhealthy occupations.

Non-discrimination (Nationality)

- ▶ *Article 10§4 –right to vocational training*

Equal treatment of nationals of non-EU States party to the Charter and the revised Charter lawfully resident or regularly working in the Netherlands with respect to financial assistance for training is not guaranteed.

- ▶ *Article 18§3 – right to simplification and liberalisation of formalities related to immigration*

The Regulations governing the access of nationals of States party to the Charter or the revised Charter not being members of the European Union or the European Economic Area to the national labour market remain restrictive.

► *Articles 19§6 and 19§10 – right to family reunion*

Welfare support benefits are not counted towards the income level above which family reunion is approved. In this respect the possibility of exercising family reunion for a migrant worker who is receiving social assistance benefits is unduly restrictive.

► *Article 19§8 and 19§10 – guarantees concerning deportation*

A migrant worker's family members who have settled on Dutch territory as a result of family reunion are expelled when the migrant worker is expelled.

Non-discrimination (Sex)

► *Article 1 Additional Protocol – equal opportunities and treatment in employment and occupation*

The notion of remuneration used for the application of the principle of equal pay is not sufficiently large as it excludes benefits or rights linked to a pension scheme.

Children

► *Article 7§3 – prohibition of employment of children subject to compulsory education*

1. Children aged 15, still subject to compulsory education, are allowed to work for more than half of the long summer school holidays.

2. It is possible for children aged 15, still subject to compulsory education, to deliver newspapers from 6 a.m. for up to 2 hours per day, 5 days per week before school.

► *Article 7§5 – working conditions between the age of 15 and 18 (remuneration)*

Even though an apprentice is entitled to more than two thirds of an adult worker's minimum wage during the last year of his apprenticeship, the allowances are not fair in view of the fact that an 18-years old adult worker's minimum wage is unreasonably low.

► *Article 17 – right of mothers and children to social and economic protection*

Not all forms of violence against children are prohibited.

Employment

► *Article 2§1 – right to reasonable working time.*

The "flexibility regulations" of the Working Hours Act do not contain sufficient guarantees for collective bargaining in order to protect workers.

▶ *Article 4§1 – right to a fair remuneration*

The statutory minimum wage of workers aged between 18 and 21 years is too low to be considered fair in the meaning of this provision.

▶ *Article 4§3 – right to equal pay*

Benefits or rights linked to a pension scheme are excluded from the notion of pay and therefore from the application of the principle of equal treatment.

▶ *Article 6§4 – Right to collective bargaining (strike and lock-outs)*

The Dutch judges power to determine whether recourse to a strike is premature constitutes an impingement on the very substance of the right to strike as this allows the judge to exercise the trade unions' key prerogatives of deciding whether and when a strike is necessary.

Social Protection

▶ *Article 12§3– development of the social security system*

Self-employed persons are no longer covered by the sickness, maternity and invalidity branches of the social security.

▶ *Article 12§4–social security of persons moving between states*

The legislation does not provide for the retention of supplementary benefits when persons move to a state Party not bound by Community regulations or by agreement with the Netherlands.

Netherlands Antilles

Non-discrimination (Sex)

▶ *Article 1§2 – Non-discrimination in employment*

The legal framework aimed at prohibiting discrimination is insufficient.

▶ *Article 1 Additional Protocol – equal opportunities and treatment in employment and occupation*

1. The legal measures prohibiting discrimination in employment are inadequate.

2. No particular steps are taken to promote women's access to employment.

Employment

▶ *Article 1§1 – policy of full employment*

The employment policy efforts are inadequate in the light of the prevailing employment situation.

Social Protection

▶ *Article 16 – rights of the family*

Family benefits are not paid to a significant number of families.

Aruba

Non-discrimination (Sex)

▶ *Article 1 Additional Protocol – equal opportunities and treatment in employment and occupation*

1. The legal safeguards against discrimination in employment are inadequate.
2. The legislation excludes women from night work.
3. No particular steps are taken to promote women's access to employment.

▶ *Article 1§2 – Non-discrimination in employment*

Legislation prohibiting discrimination in employment is inadequate.

▶ *Article 16 – rights of family*

Eligibility for certain family benefits is subject to a nationality condition.

The Committee is unable to assess whether the situation in the Netherlands is in conformity with the following provisions:

The Netherlands (Kingdom in Europe)

▶ *Article 7§6 – working conditions between the age of 15 and 18 (time spent on vocational training)*

There is no evidence that the great majority of young workers and apprentices have a right to remuneration for time spent on vocational training with the consent of the employer.

► *Article 12§1 – existence of a social security system*

The information provided by the Government does not allow the Committee to assess whether the right to sickness and invalidity benefits is effectively secured as a social security right for all workers.

Netherlands Antilles

► *Article 1§4 – vocational guidance, training and rehabilitation*

The Netherlands have failed, since the first supervision cycle, to provide evidence of compliance with this provision.”

H. PARLIAMENTARY ASSEMBLY

Resolution 1483 (2006): Policy of return for failed asylum seekers in the Netherlands adopted by the Assembly on 26 January 2006 (see Doc. 10741, report of the Committee on Migration, Refugees and Population, rapporteur: Mrs Zapfl-Helbling)