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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-eighth session
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**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES IN
ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT**

**Concluding observations of the Committee on
Economic, Social and Cultural Rights**

NETHERLANDS ANTILLES

1. The Committee on Economic, Social and Cultural Rights considered the third periodic report of the Kingdom of the Netherlands concerning the Netherlands Antilles on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/ANT/3) at its 9th and 10th meetings, held on 4 May 2007 (E/C.12/2007/SR.9 and 10), and adopted the following concluding observations at its 21st, 22nd and 23rd meetings, held on 14 and 15 May 2007.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of the State party on the Netherlands Antilles, which was prepared in accordance with the Committee's guidelines and contains practical information on the implementation of the Covenant. It also welcomes the written replies to its list of issues (E/C.12/ANT/Q/3/Add.1) but regrets that these replies were not submitted sufficiently in advance to be translated into the working languages of the Committee. The Committee notes the open and constructive dialogue established with the State party's delegation and the efforts made by the delegation to respond orally to the questions asked.

B. Positive aspects

3. The Committee notes with satisfaction that measures have been taken to introduce provisions criminalizing domestic violence in the new Criminal Code of the Netherlands Antilles.
4. The Committee welcomes the incorporation into labour legislation, in 2000, of new protective provisions for workers, particularly in the event of illness, pregnancy and maternity, and of participation in trade union activities.
5. The Committee welcomes the measures aimed at increasing the length of compulsory education and combating school dropout.
6. The Committee notes with satisfaction the recent decision of the authorities to include Papiamentu as an official language of the Netherlands Antilles, in addition to Dutch and English.

C. Factors and difficulties impeding the implementation of the Covenant

7. The Committee notes the absence of any significant factors or difficulties impeding the effective implementation of the Covenant in the State party.

D. Principal subjects of concern

8. The Committee notes with concern that the various authorities of the Netherlands Antilles are not fully aware of the importance of the international obligations arising from the Covenant.
9. The Committee regrets that little progress has been made in regard to the direct applicability of the rights set out in the Covenant. It takes note of the information that these rights may only be applied directly by the national courts to the extent that the courts deem such application to be possible. The Committee is concerned that the State party thus considers that most economic, social and cultural rights are not directly applicable. The Committee furthermore regrets the fact that it was not provided with any examples.
10. The Committee is concerned by the high unemployment rate in the Netherlands Antilles, particularly the unemployment rate among young people, which amounted to 37 per cent in 2006.
11. The Committee regrets not having received specific information about measures such as the abolition of the obligation for most industries in Curaçao to obtain dismissal permits, increased flexibility in working hours and the introduction of short-term employment contracts, and about the impact of these measures on the employment situation.
12. The Committee regrets not having received sufficient information as to whether the minimum wage provides workers and their families with a decent living.

13. The Committee is concerned at the absence of legislative or other measures adopted in the Netherlands Antilles with a view to securing the right to equal pay for equal work. The Committee is concerned by the significant differences between the average wage of men and women, with women earning about 27.4 per cent less than men. It notes with concern that the Netherlands Antilles does not regard this situation as discriminatory against women.

14. The Committee notes that the right to strike is recognized in the State party, but regrets that the State party has not clarified the reasons for maintaining its reservation to article 8 (1) (d) of the Covenant in respect of the Netherlands Antilles.

15. The Committee regrets that it has not received disaggregated data (by sex and age) on the various categories of workers covered by the social security system or information on the measures taken to extend this protection to those excluded from it. It is concerned by reports that the percentage of the population covered by social security is very low.

16. The Committee is concerned that social security benefits are insufficient to enable the recipients to combat poverty. The Committee is also concerned by reports that social assistance is not provided to all those who need it so as to ensure an adequate standard of living.

17. The Committee expresses concern at the particularly difficult situation of single-parent families, who do not receive adequate assistance.

18. The Committee is concerned by reports that day-care services remain inadequate, particularly on the Netherlands Windward Islands.

19. The Committee is concerned that only civil servants and teachers are entitled to family benefits.

20. The Committee is deeply concerned at the reportedly high incidence of early pregnancies in the Netherlands Antilles, which have adverse effects on the right of adolescent girls to education and health. The Committee is also concerned by abortion rates among adolescents. It regrets that the State party has not provided sufficient information on the measures taken to address these matters.

21. The Committee is concerned at the absence of any common system for registering cases of sexual exploitation and other abuse against children in the Netherlands Antilles, which makes any assessment of the situation difficult. It furthermore expresses concern at the lack of specific information on the legal protection of boys against sexual exploitation, particularly regarding criminal provisions relating to rape.

22. The Committee notes with concern that, despite assurances by the authorities of the Netherlands Antilles that combating poverty is one of their priorities, an official poverty line showing the extent of poverty in the Netherlands Antilles has not yet been established. The Committee is further concerned that economic, social and cultural rights have not yet been incorporated into the poverty reduction programmes of the Netherlands Antilles.

E. Suggestions and recommendations

23. The Committee again draws the attention of the State party to its general comment No. 3 (1990) on the nature of States parties' obligations, and invites it to re-examine the question of the possibility of directly applying the provisions of the Covenant. It recommends that specific training concerning the justiciability of economic, social and cultural rights and the possibilities for direct application of the rights set out in the Covenant be organized for judges and lawyers.

24. The Committee recommends that the State party fully incorporate economic, social and cultural rights into the new Constitution of Curaçao, on an equal footing with civil and political rights.

25. The Committee recommends the establishment of an independent human rights institution in the islands of the Netherlands Antilles. It also recommends the adoption and implementation of an action plan for human rights which fully takes into account the rights set out in the Covenant.

26. The Committee recommends the adoption, in the near future, of an ordinance on equality of treatment in the Netherlands Antilles.

27. The Committee recommends the adoption of measures providing effective and adequate protection for the economic, social and cultural rights of asylum-seekers and refugees.

28. The Committee recommends that the State party bring into force and implement effectively, at an early date, the provisions criminalizing domestic violence which are to be incorporated into the new Criminal Code.

29. The Committee urges the State party to intensify its efforts to combat unemployment by carrying out targeted programmes, particularly for young people. Detailed information on the effectiveness of the adoption of such measures should be included in the next periodic report, along with statistical data on unemployment disaggregated on a comparative basis.

30. The Committee recommends that the State party assess the impact of amendments to labour legislation on workers' rights in the light of articles 6 and 7 of the Covenant and of general comment No. 18 (2005) concerning the right to work (art. 6).

31. The Committee recommends that the various minimum wages be sufficiently high to provide workers and their families with a decent living, in accordance with article 7 (a) (ii) of the Covenant, and would like to receive further information in this regard in the next report. The Committee also encourages the State party to completely eliminate differences between the various categories of minimum wage at an early date.

32. The Committee urges the State party to take all necessary steps, including legislative measures, to ensure immediate implementation of the principle of equal pay for equal work. In this regard, it draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3).

33. The Committee recommends that the State party give more serious consideration to withdrawing the reservation to article 8 (1) (d) of the Covenant.
34. The Committee recommends that the State party take all necessary steps to guarantee the right of everyone to social security. The State party should conduct a thorough study on persons excluded from the social security system, indicating the reasons for their exclusion and the results of steps taken to address this situation, and include the study in the next periodic report.
35. The Committee encourages the State party to provide social assistance to all those who need it, in particular the most disadvantaged persons and groups, so that they may attain an adequate standard of living.
36. The Committee recommends that the State party adopt specific protection measures for single-parent families, including family benefits, day-care services and financial assistance, in order to ensure their right to an adequate standard of living, adequate protection and education for their children.
37. The Committee urges that a national policy on day-care services be adopted. Such a policy should endeavour to ensure that these services are available in sufficient number throughout the islands of the Netherlands Antilles.
38. The Committee encourages the State party to broaden the categories of persons covered by family benefits so that all families with dependent children may receive them.
39. The Committee requests the State party to provide detailed information, including statistics, on early pregnancies and abortions among adolescents, and on the measures taken to address these matters.
40. The Committee recommends that the State party take measures to protect children, including boys, against sexual exploitation, violence and all other forms of abuse. A common system for registering cases of mistreatment should be established in the Netherlands Antilles.
41. The Committee recommends that an official poverty line be established in the Netherlands Antilles and economic, social and cultural rights be incorporated into poverty reduction programmes set up in the Netherlands Antilles. In this connection, the Committee refers the State party to its statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights" (E/C.12/2001/10).
42. The Committee encourages the State party to continue its efforts to combat school dropout.
43. The Committee requests that the next periodic report provide it with more precise information on the ethnic make-up of the population of the Netherlands Antilles and on the enjoyment of cultural rights by persons and groups.
44. The Committee calls upon the State party to translate the Covenant and the present concluding observations into Papiamentu and Dutch and publicize them widely among all sectors of society, in particular civil servants and members of the judiciary, and to give details in

its next periodic report of all it has done to respond to them. It also encourages the State party to involve non-governmental organizations and other members of civil society in the process of discussion at the national level prior to the submission of its next periodic report.

45. The Committee invites the State party to update its core document in keeping with the requirements of the harmonized reporting guidelines relating to the common core document,¹ as recently adopted by the international human rights treaty bodies.

46. The Committee reminds the State party that its fourth periodic report is due for submission by 30 June 2007. Taking into account, however, that the report on the Netherlands Antilles was considered in May 2007, the Committee decides to extend this deadline. The State party is requested to submit its fourth periodic report on the various territories making up the Kingdom of the Netherlands by 30 June 2008, and to include in that report detailed information on the steps taken to implement the recommendations contained in the present concluding observations.

¹ HRI/GEN/2/Rev.4.