



International
Labour
Office



THE STATE OF APPLICATION OF THE PROVISIONS
FOR SOCIAL SECURITY OF THE INTERNATIONAL
TREATIES ON SOCIAL RIGHTS RATIFIED BY

Netherlands

ILO
TECHNICAL
NOTE

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The information and data contained in the Technical Note is taken from the Government reports, on-line databases of the National Statistical office, official web-sites of the government departments, MISSCEO, MISSOC, SSI, ILOSTAT and EUROSTAT.

List of international abbreviations:

CAS	Committee on the Application of Standards, International Labour Conference
CEACR	Committee of Experts on the Application of Conventions and Recommendations
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
COE	Council of Europe
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
ECSR	European Committee of Social Rights
ECSS	European Code of Social Security
ESC	European Social Charter
EU	European Union
EUROSTAT	Statistical Office of the European Union
GC	Governmental Committee of the European Social Charter and European Code of Social Security
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILS	International Labour Standards
IMF	International Monetary Fund
MISSEO	Mutual Information System on Social Protection of the Council of Europe
MISSOC	Mutual Information System on Social Protection
OECD	Organisation for Economic Co-operation and Development
SSI	Social Security Inquiry

National abbreviations:

CBS	Statistics Netherlands
CEP	Central Economic Plan
CNV	National Federation of Christian Trade Unions
FNV	Netherlands Trade Union Confederation
IGZ	Health Care Inspectorate
NZa	Dutch Health Care Authority (Nederlandse Zorgautoriteit)
SCP	Netherlands Institute for Social Research
SVB	Insurance schemes implementation organisation (Sociale Verzekeringsbank)
UWV	Employee Insurance Agency

*CHAPTER I. Adequacy of social
security benefits: income and poverty
indicators and standards*

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Country profile by Eurostat indicators, National indicators and ILO minimum standards

<u>Eurostat</u>	EU-Avg 2013	2005	2012	2013	2014
At-risk-of-poverty threshold (40%, single person)	€ 462.3	€ 566.7	€ 685.4	€ 694.7	€ 696.3
At-risk-of-poverty threshold (50%, single person)	€ 577.8	€ 708.3	€ 856.8	€ 868.3	€ 870.5
At-risk-of-poverty rate - 50%, before social transfers	19.5%	16.0%	15.5%	15.4%	16.1%
At-risk-of-poverty rate - 50%, after social transfers	10.2%	6.2%	5.2%	5.2%	5.9%
At-risk-of-poverty rate for children under 18 y.o. - 50% thrd	12.4%	8.9%	6.2%	5.7%	5.4%
In-work poverty rate - 50% threshold	5.2%	3.9%	2.4%	2.2%	2.8%
At-risk-of-poverty rate for pensioners - 50% threshold	6.0%	1.8%	2.7%	2.6%	3.9%
Aggregate replacement ratio	55%	43%	47%	47%	50%
Severe material deprivation (% of total population)	9.6%	2.5%	2.3%	2.5%	3.2%
Persistent at-risk-of-poverty rate - 50% threshold	5.2%		1.6%	2.0%	
Social protection expenditure as % of GDP	25.0%	27.9%	33.3%		
Gini coefficient before social transfers	36.1%	33.7%	32.0%	31.4%	32.3%
Gini coefficient after social transfers	30.5%	26.9%	25.4%	25.1%	26.2%

National indicators: *data supplied in the Government Report on the ECSS in 2015*

Guaranteed minimum income (GMI)	€ 926.5	2013, single person (incl. supplement of € 264.7)
GMI (per adult living in a household)	€ 661.8	2013
Minimum wage	€ 1477.8	2013
Legal minimum pension	€ 1086.5	2013
Average wage	€ 3482.7	2013, CBS Statline
Survivor benefit	€ 1120.2	2013, Gross benefit
Unemployment insurance benefit	€ 1034.5	2013, 70% of minimum wage
Maternity insurance benefit	€ 1477.8	2013, 100% of minimum wage
Disability insurance	€ 1108.4	2013, 75% of minimum wage

Standard benefits amounts under the ECSS

The determination of the standard reference wage to be presented by the Government in the detailed report 2016. Standard benefits amounts to be added based on the revised methodology.

Fig. 1. Structure of population in poverty (Eurostat poverty thresholds of 60%) by the most frequent employment status, 2013

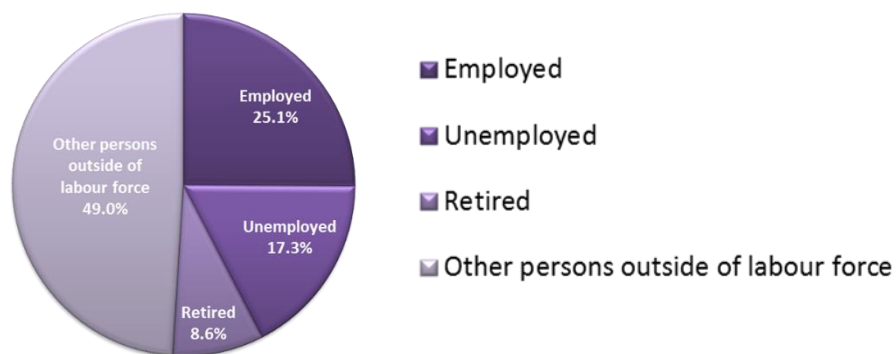
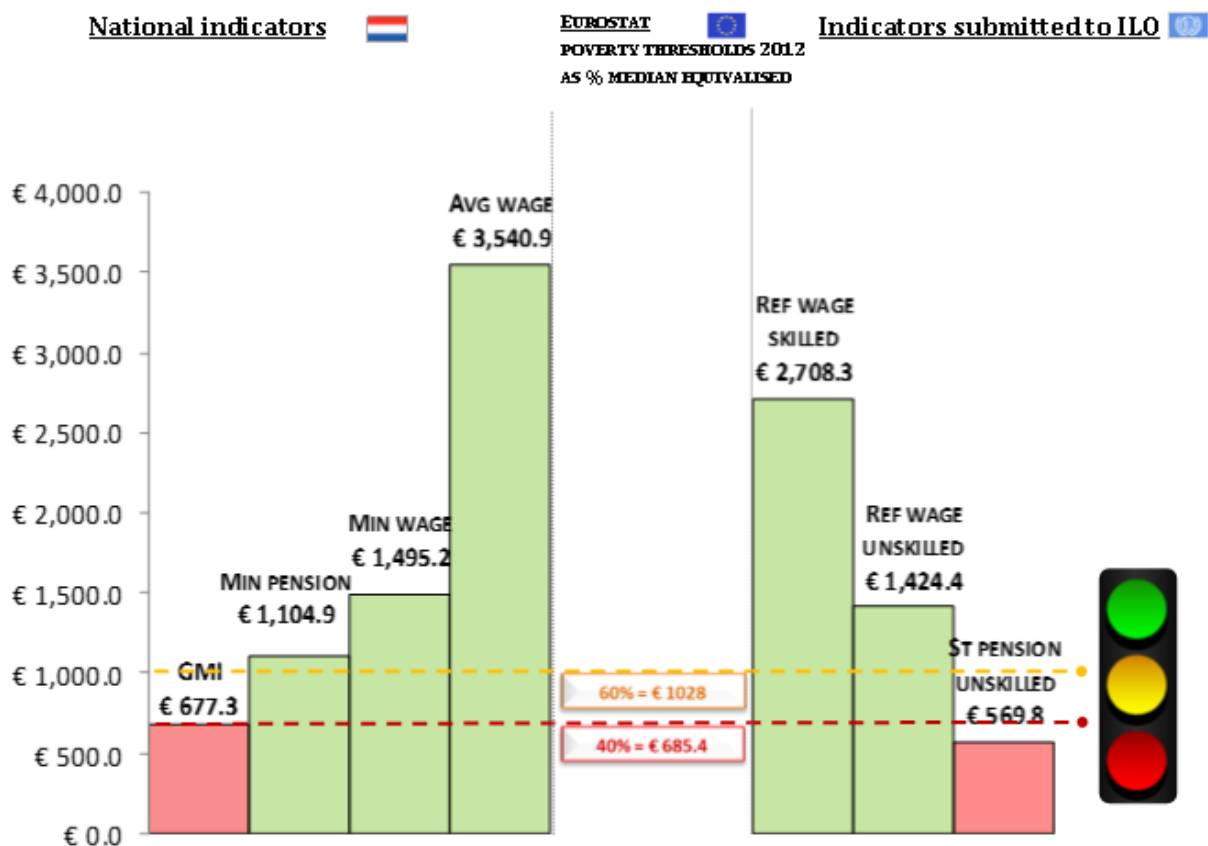


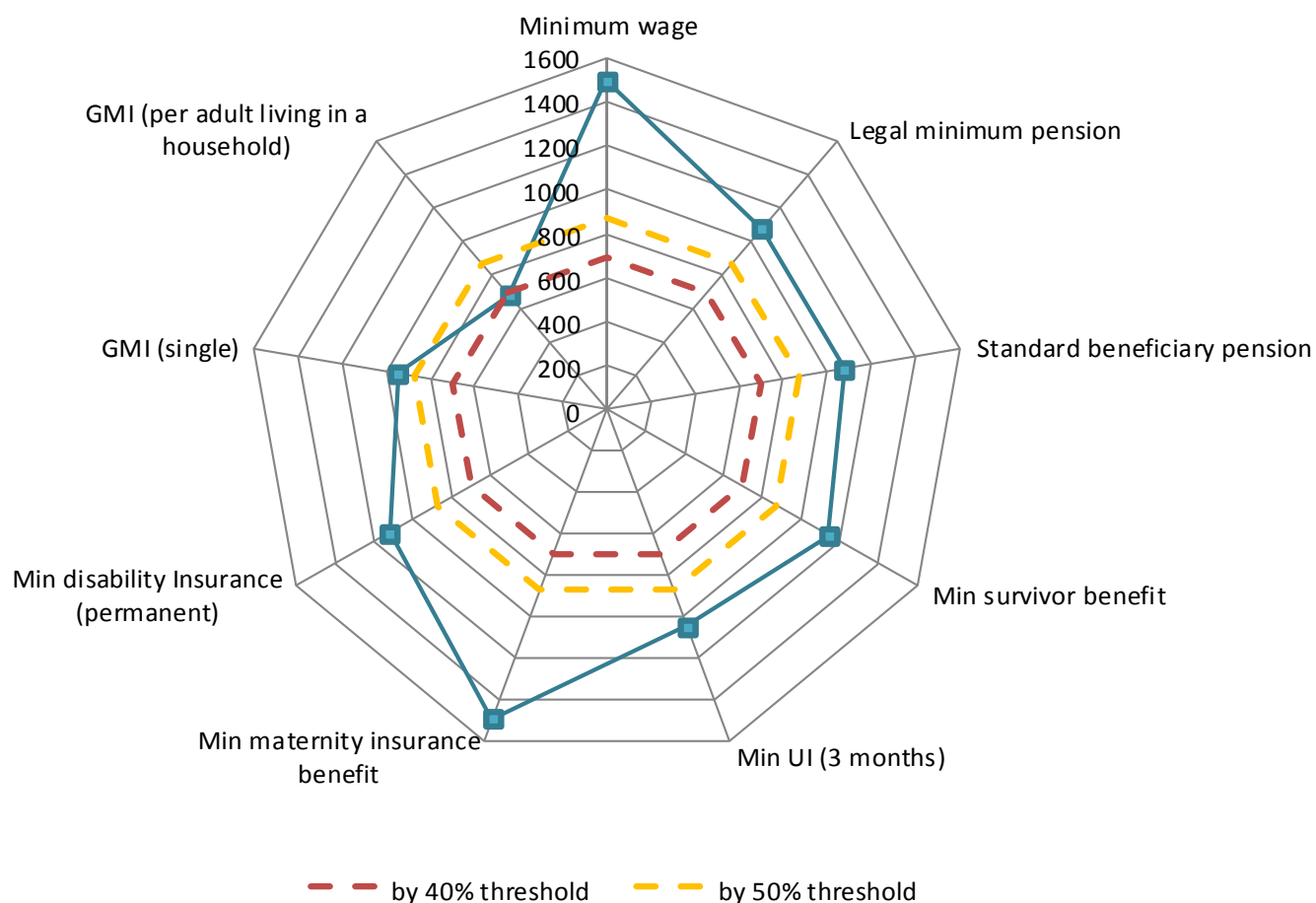
Fig. 2. Income and poverty – single person, 2012



Share of population below 40% and 60% poverty thresholds

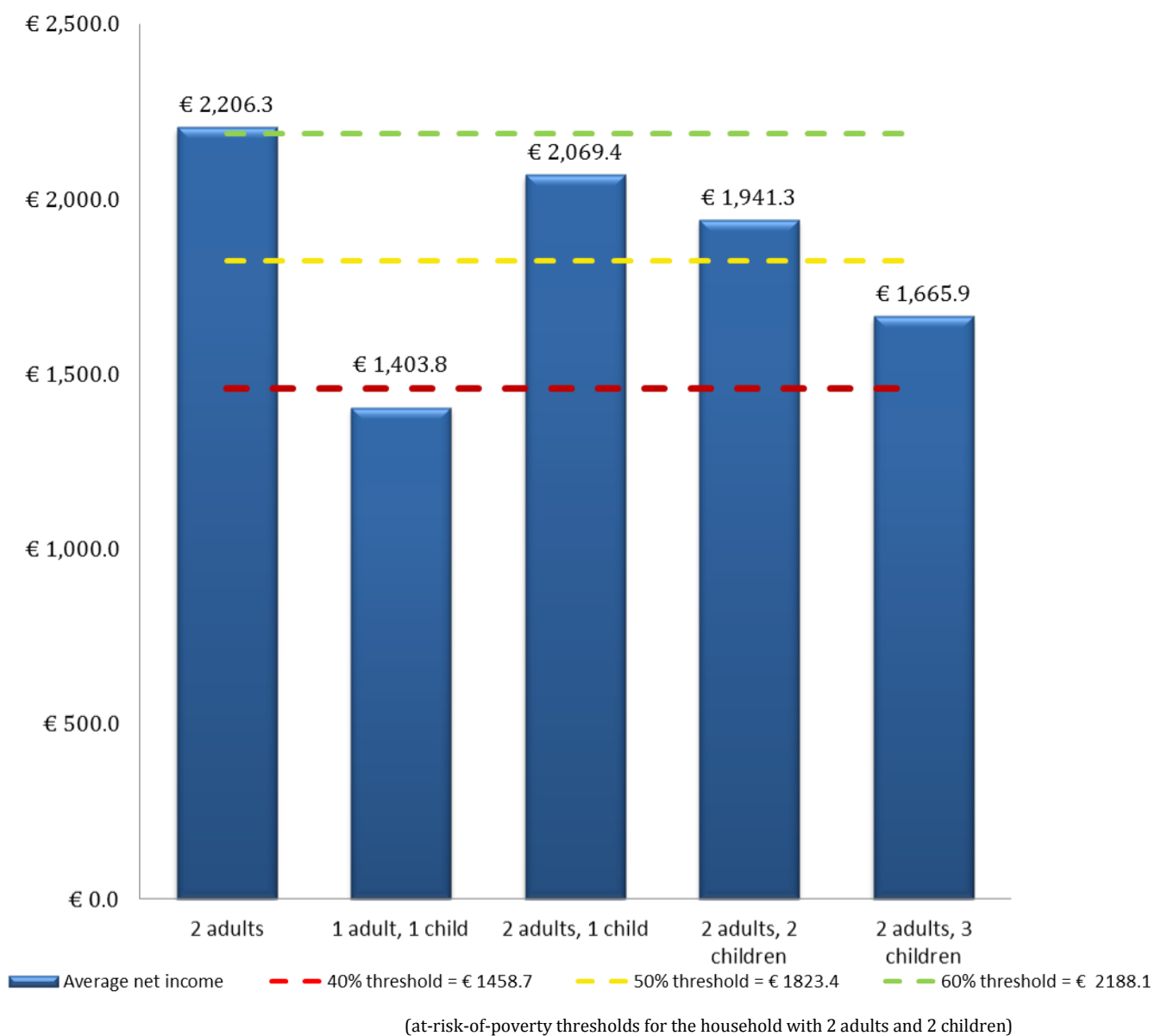
	2013		2014	
Under 40%	2.5%	420'732	2.8%	473'222
Between 40% and 60%	7.9%	1'329'513	8.8%	1'487'270
Total population of the country	16'829'289		16'900'796	

Fig. 3. Social benefits in comparison to Eurostat 40% and 50% poverty thresholds, 2014



Benefits/payments	Amount per month	Sources
Minimum wage	€ 1495.2	MISSOC, 2014
Legal minimum pension	€ 1104.9	MISSOC, 2014
Standard beneficiary pension	€ 1104.9	Pension for average case worker, Government Report 2014
Survivor benefit	€ 1143.7	MISSOC, 2014
Unemployment insurance benefit (UI - 3 months)	€ 1046.6	MISSOC, 2014
Maternity insurance benefit	€ 1495.2	MISSOC, 2014
Disability Insurance (permanent)	€ 1121.4	MISSOC, 2014
Guaranteed Minimum Income, GMI (single)	€ 948.2	Social Insurance Bank, 2014
GMI (per adult living in a household)	€ 677.3	Social Insurance Bank, 2014
At-risk-of-poverty threshold, 40 %	€ 696.3	Eurostat, 2014
At-risk-of-poverty threshold, 50 %	€ 870.5	Eurostat, 2014

Fig. 4. Income and poverty indicators by type of household, 2013



Household composition	2012		2013	
	Average net income	At-risk-of-poverty rate by 60%	Average net income	At-risk-of-poverty rate by 60%
2 adults	€ 2136.8	4.9%	€ 2206.3	5.7%
1 adult, 1 child	€ 1352.1	28.2%	€ 1403.8	20.1%
2 adults, 1 child	€ 2061.9	4.0%	€ 2069.4	6.5%
2 adults, 2 children	€ 1943.1	6.8%	€ 1941.3	4.7%
2 adults, 3 children	€ 1683.6	16.7%	€ 1665.9	20.1%

Fig. 5. Comparison of monthly wages and pensions (40% replacement rate) to the Eurostat poverty thresholds in 2013-2014, by decile

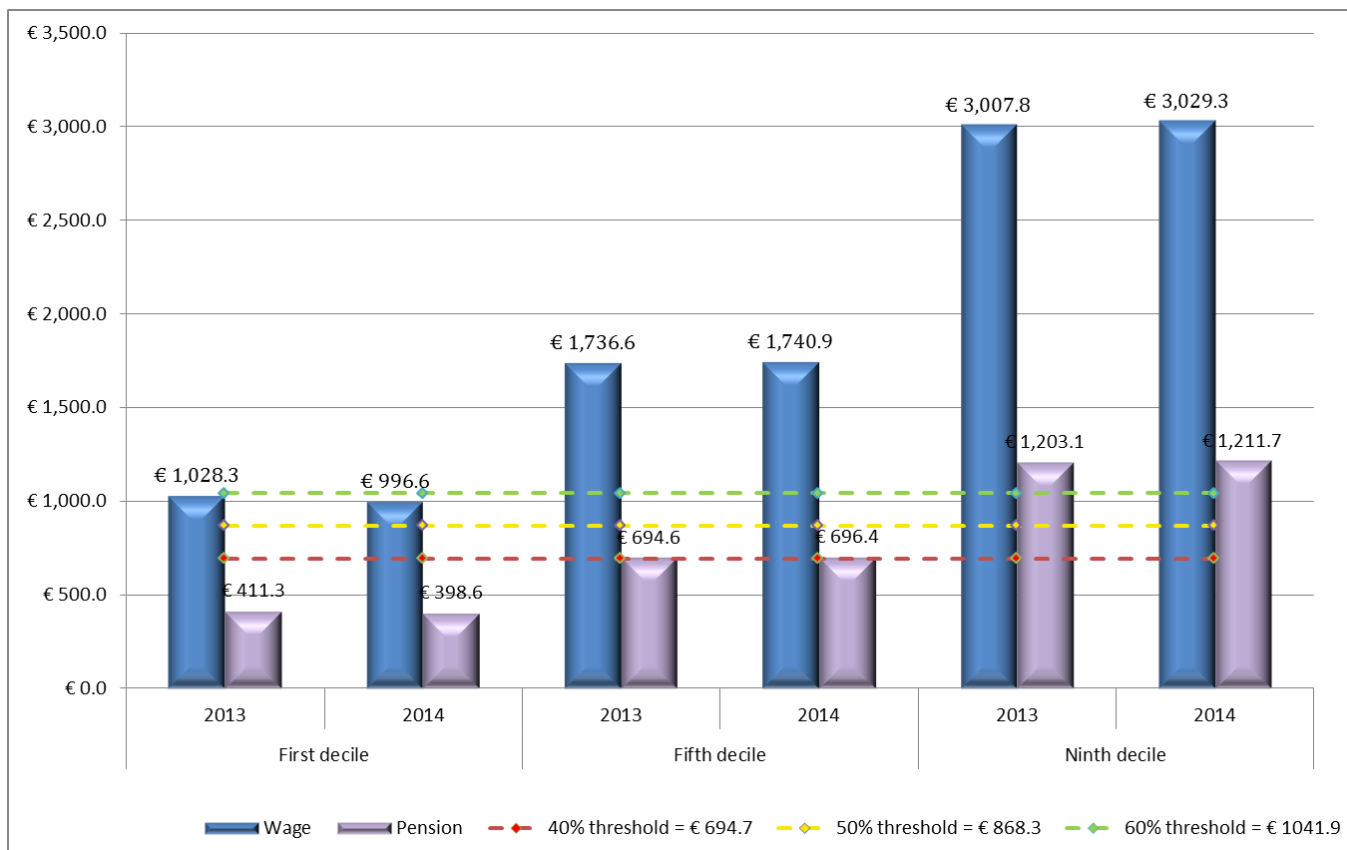


Fig. 6. Test on precarious employment: share of employed population by different job security situation, as % of total employment, 2012

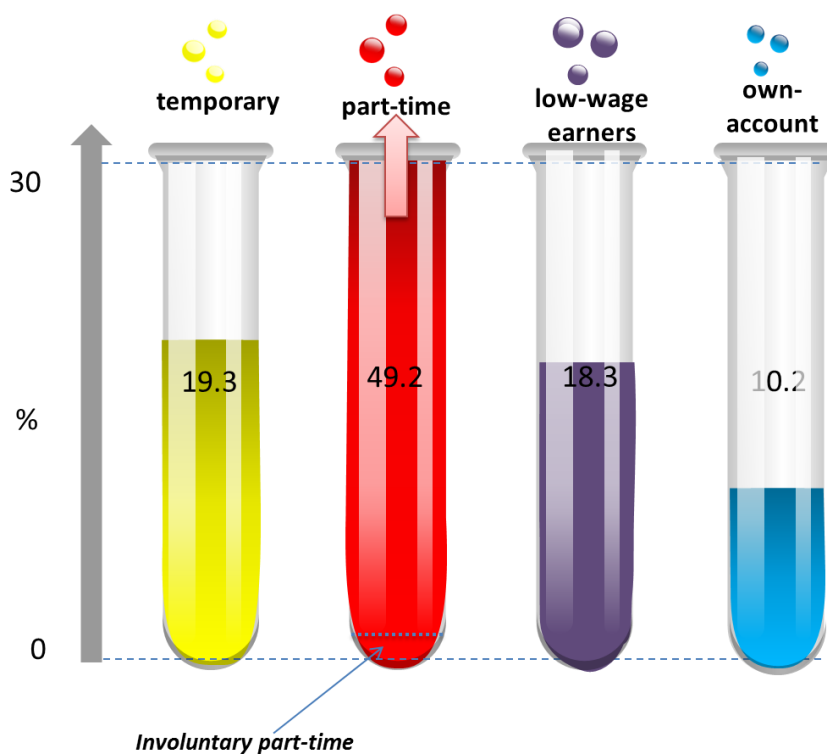
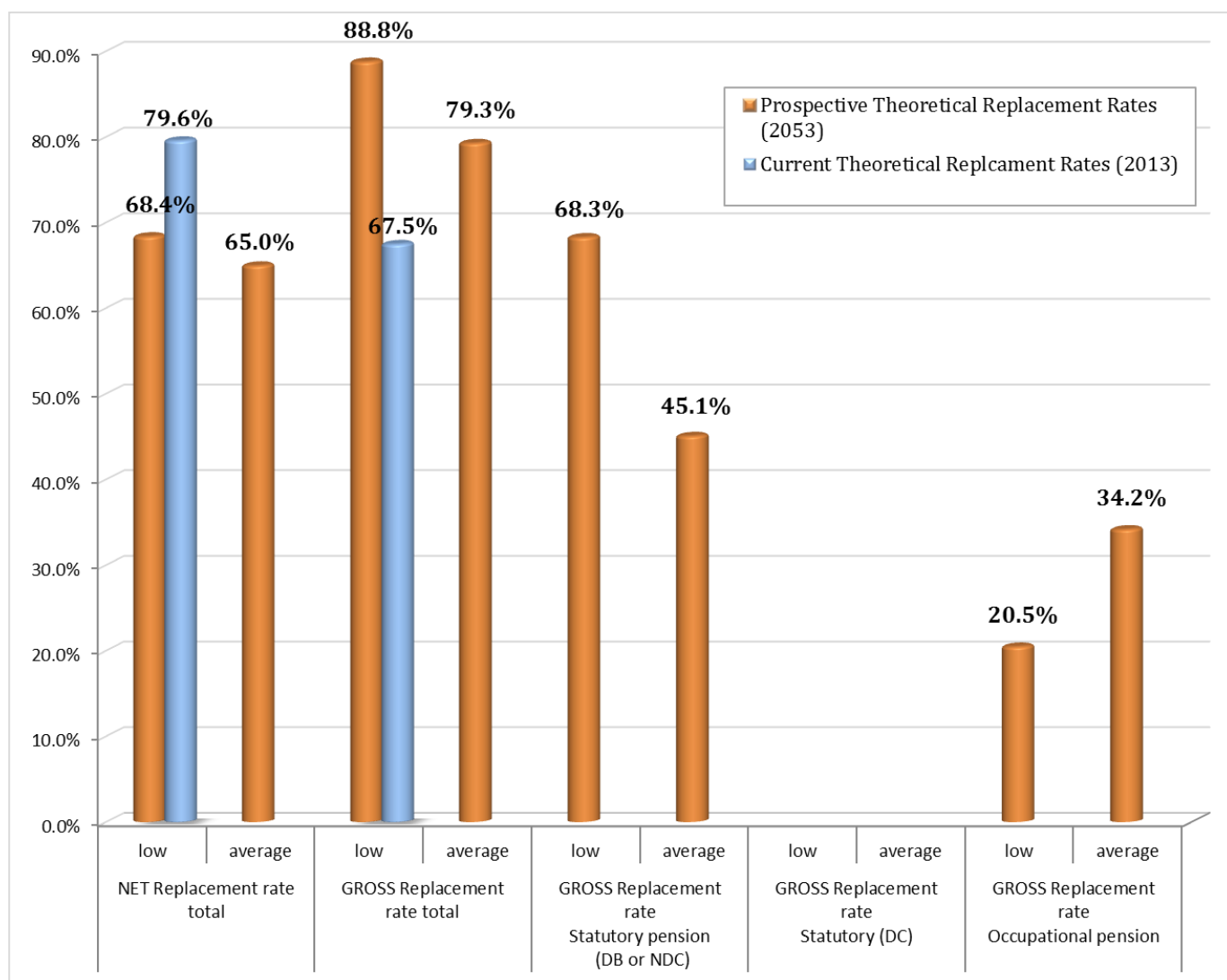


Fig. 7. Theoretical Replacement Rates for low and average wage earners, retiring in 2053 at statutory pension age (67) with 30 years of contributions between 2013 and 2053



**Male, 20 years work from age 25 - career break until 10 years prior to SPA - 10 years work.
10 years of career break in the middle of the career**

	NET Replacement rate total		GROSS Replacement rate total		GROSS Replacement rate Statutory pension (DB or NDC)		GROSS Replacement rate Statutory (DC)		GROSS Replacement rate Occupational pension	
	low	average	low	average	low	average	low	average	low	average
2053	68.4%	65.0%	88.8%	79.3%	68.3%	45.1%	-	-	20.5%	34.2%
2013	79.6%		67.5%							

Source: The 2015 Pension Adequacy Report: current and future income adequacy in old age in the EU, Volume I

Social security and reduction of poverty. Extracts from the 2015 Government report on the European Code of Social Security.

Specific request 6: Structure and dynamics of poverty

Concerning social security and the reduction of poverty, in view of the fact that prevention and reduction of poverty is one of the main objectives of the Code, the Committee notes that further statistics are required on the structure and dynamics of poverty in the country.

Answer of Dutch Government

Concerning social security and the reduction of poverty, we have been requested to provide the most recent and comprehensive statistics on the structure and dynamics of poverty in the Netherlands. The following aims to fulfil this request by providing:

1. An update of the data as mentioned in the 'Technical Note';
2. Additional data on poverty-groups based on the latest report of independent bureaus;
3. The policy priorities of the government in relation to poverty;

1. An update of the data as in Technical Note

The following update concerns data which we believe to be most accurate and relevant. In certain cases they may differ from the data in the original note, for instance with regards to the reference period. In footnotes an explanation is given for the choices made.

1. Eurostat

Indicator	Source	EU28 AVG		Netherlands	
		2012	2013	2012	2013
At-risk-of-poverty rate (AROP, % of total population)	ilc_li02	16,8	16,6	10,1	10,4
AROP for children (% of total children <18)	ilc_li02	20,5	20,2	13,2	12,6
In-work poverty rate	ilc_li04	9,0	8,9	4,6	4,5
AROP rate for pensioners	ilc_li02	14,6	13,8	5,5	5,5
Aggregate replacement ratio	tsdde310	54	55	47	47
Severe material deprivation (% of total population)	t2020_53	9,9	9,6	2,3	2,5
Persistent at-risk-of-poverty rate	ilc_li21	10,8	9,0	5,8	6,5
At-risk-of-poverty threshold (40%, single person)	ilc_li01	NA	NA	€ 685,4	€ 694,7
At-risk-of-poverty threshold (60%, single person)	ilc_li01	NA	NA	€ 1.028,1	€ 1.042,0

The risk of poverty or social exclusion in the Netherlands is relatively low compared to the other EU member states. Table 2 shows the position (in 2013) of the Netherlands in terms of the three EU indicators used to measure the risk of poverty and social exclusion.

2. Position of the Netherlands on the three indicators of the EU 2020 poverty target, 2013

Indicator	At risk of poverty ^a	Material deprivation	Jobless households (0-59)	At risk of poverty or social exclusion (AROE, sum of the three indicators)
% of NL population	10.4	2.5	9.3	15.9
Ranking in Europe	2 nd (after CZ)	3 rd (after SE and LUX)	14 th	2 nd (after CZ)
% EU28	16.6	9.6	10.8	24.5

a. The AROP rate is a relative measure in that it would record the same values if all incomes were doubled or all incomes were halved.

Source: Eurostat

3. National indicators

Minimum guaranteed income*	€ 926,5		1 July 2013	The Netherlands government website
Minimum wage	€ 1.477,8	gross	1 July 2013	The Netherlands government website
Minimum pension**	€ 1.086,5	gross	1 July 2013	Social Insurance Bank (SVB)
Average wage	€ 3.482,7	gross	2013***	CBS Statline
Average pension	NA			

a. Single person, incl. supplement of € 264,7 for those who can't share costs of living.

b. 50 years of residence required for full minimum pension. If this is not the case and people do not have any additional income (from their own build-up of second-pillar pension), in case of a continuous low-income situation and costs cannot be shared, then a supplement can be provided as indicated under a.

c. Latest complete and comparable data available.

4. People below Eurostat 40% and 60% poverty thresholds as % of total population

	2012		2013	
	%	Number	%	Number
<40%	2.4%	401'528	2.5%	425'000
40% to 60%	7.7%	1'288'237	7.8%	1'310'000
Population	16'730'348		16'771'207	

Source: Eurostat

5. Income and poverty indicators by type of household

	2012		2013	
	Average net income	AROP (60% threshold)	Average net income	AROP (60% threshold)
Two adults	€ 2.136,8	4,9	€ 2.206,3	5,7
Single person with dependent children	€ 1.352,1	28,2	€ 1.403,8	20,1
Two adults, 1 dependent child	€ 2.061,9	4,0	€ 2.069,4	6,5
Two adults, 2 dependent children	€ 1.943,1	6,8	€ 1.941,3	4,7
Two adults, 3 or more dependent children	€ 1.683,6	16,7	€ 1.665,9	20,1

Source: Eurostat

6. Social benefits in comparison to different poverty levels, amount per month (euros)^a

Benefits/payments	2013	
Minimum wage	€ 1.477,8	per 1 July 2013
Legal minimum pension	€ 1.086,5	per 1 July 2013
Standard beneficiary pension	€ 1.086,5	per 1 July 2013
Average pension	-	
Survivor benefit	€ 1.120,2	Net gross survivor benefit, per 1 July 2013
Unemployment insurance benefit (UI - 3 months)	€ 1.034,5	per 1 July 2013 (70% of minimum wage)
Maternity insurance benefit	€ 1.477,8	per 1 July 2013 (100% of minimum wage)
Disability Insurance (permanent)	€ 1.108,4	per 1 July 2013 (75% of minimum wage)
GMI (single)	€ 926,5	single person (incl. supplement of € 264,7)
GMI (per adult living in a household)	€ 661,8	single person (excl. supplement of € 264,7)
At-risk-of-poverty threshold, 40 % (AROP)	€ 694,7	
At-risk-of-poverty threshold, 60 % (AROP)	€ 1.042,0	

a. To enable a proper comparison of benefits/payments to the different poverty levels 2013, the amounts in table 6 have been set at the level that was in force on 1 July 2013.

b. In the Technical Note various amounts (as of 1 January or 1 July 2014) are included for which the reference moments are not comparable to the poverty thresholds which applied in 2012.

Source: The Netherlands government website, SVB, Eurostat

2 Additional data on poverty-groups based on the latest report of independent bureaus

The most recent data on poverty in the Netherlands stem from the Poverty Survey 2014¹ (the yearly joint report of two independent bureaus, Statistics Netherlands (CBS) and the Netherlands institute for Social Research (SCP). The data used in the Poverty Survey contain figures over 2013 and forecasts for the years 2014 and 2015.

The two bureaus use different thresholds² to measure poverty. CBS uses the low-income threshold while SCP employs a budget-approach. Despite their different thresholds, the situation of poverty and the affected groups show similar trends and developments.

The Survey indicates an increase in the Dutch poverty rate once again in 2013 – according to both thresholds. Forecasts indicate that the poverty rate will fall slightly in 2014 and 2015. This suggests that the rise in poverty which stemmed from the onset of the economic crisis at the end of 2008, reached its peak in 2013.

¹ For details and tables see the English Summary and Press-release here:

http://www.scp.nl/english/Publications/Summaries_by_year/Summaries_2014/Poverty_Survey_2014

² SCP discusses poverty on the basis of the modest but adequate criterion.

This is a norm amount based on the minimum necessary expenditure for food, clothing, housing and social participation. SCP measures poverty primarily at the level of individual persons.

CBS describes the risk of poverty on the basis of the low-income threshold. This threshold represents a fixed level of purchasing power and is adjusted annually only on the basis of price changes. CBS describes the risk of poverty primarily at household level.

The predominant conclusions of the Survey can be highlighted as follows:

The share of Dutch households and individuals living below the poverty line rose in 2013. This was also the case in 2011 and 2012. Forecasts suggest a slight fall in 2014 and 2015.

- Both the number of households as well as the number of persons living in a household below the low-income threshold increased with 1.0 percentage point compared with 2012.

Long-term poverty also rose in 2013.

- According to both thresholds long-term poverty rose with 0.4 percentage points (from 2.6% to 3.0% and from 2.5% to 2.9%) representing the largest increase in the percentage of households at risk of long term poverty since the onset of the economic crisis.
- More than half of these households were recipients of social assistance benefits.
- Despite this negative development, the percentage of households at risk of long-term poverty is still lower than during the beginning of this century, when it reached above 4%.

The poverty rate is highest among lone-parent families, singles aged up to 65, non-Western households, social assistance benefit-recipients and children. All these groups saw their income position deteriorate further in 2013 compared with 2012.

- In all groups which have traditionally been at high risk of poverty, the share of households with an income below the low-income threshold increased further in 2013.
- Analyzed by principal source of income, households in receipt of social assistance benefit were by far most often forced to live on an income below the low-income threshold in 2013 – 78%, 4 percentage points more than in 2012. They were followed at some distance by households in receipt of disability benefit (30.6%) and unemployment benefit (25.3%). The proportion of low-income households among those not dependent on benefit was highest among the self-employed in 2013 (13.4%); the figure for households where wages were the main source of income was 4.2%.
- For single-parent families the percentage increased from 29% to almost 34%. Single mothers are overrepresented.
- For singles aged up to 65 the figure increased from 20% to over 22%
- For non-Western households the increase was from just under 29% to almost 32%. Non-Western households of the second generation were at substantially lower risk of poverty in 2013 than members of the first generation (23% versus 33%).
- Children are overrepresented in the various at-risk of poverty groups and their number has been rising since 2007. One in three people in poverty are aged under 18; three quarters of children in poverty are aged under 12. Their risk of poverty increases when:

- Their parents are in receipt of social assistance benefit;
 - their parents are self-employed;
 - they live in a family with three or more children;
 - they live in single-parent families;
 - they have a non-Western background.
- The share of all at-risk groups on a long-term low income also increased more than average in 2013.

Poverty is concentrated in the large cities.

- According to both thresholds the largest share of people in poverty are located in the larger cities, especially in Rotterdam, Amsterdam, The Hague and Groningen. These cities know great disparities though and poverty is predominantly concentrated in specific zip-code areas.

Further highlights

- The poverty rate among the self-employed (13%) is much higher than among people in waged employment (3%).
 - This continuing favorable position of older persons is due mainly to the state old-age pension, which is often sufficient even without a supplementary pension to ensure that recipients do not end up in poverty.
- Poverty among older households has also risen over recent years yet is far below the national average.
- The poverty threshold is based on income, and it is therefore important to ascertain the extent to which people have financial assets. Tenants and social assistance benefit recipients who are below the poverty threshold generally have few assets. Of the 32% of poor people living in an owner-occupied home, more than a quarter are in negative equity, with an outstanding mortgage that is greater than the market value of their home. Nonetheless, there is also a substantial group of poor people who do have assets. Out of the total group, 15% have freely disposable assets of at least 50,000 euros, and 18% have surplus equity in their home of 50,000 euros or more. Most of them are either self-employed or pensioners.

3 The policy priorities of the government in relation to poverty

It is worthwhile to mention that the macro-economic figures and poverty statistics – as provided above – do not include municipal income assistance nor local tax waivers. Neither do these figures do full justice to the endeavor of the government to support local authorities and civil society organizations nor to the effort of all parties to cooperate extensively and integrate services to find sustainable solutions out of poverty.

Social protection has predominantly been decentralized in the Netherlands placing municipalities in the frontline when it comes to a large range of social services and care such as youth-care, community shelter, participation, poverty, social inclusion and debt-relief. Municipalities are not just responsible for the delivering of services, they are for a large part also in charge of the assessment procedure and have – to a great extent – discretion over the type, height or length of services to be provided in a given circumstance. The main reason behind this decentralized form of governance is to encourage tailor-made support for the individual or family in question.

Although these are decentralized tasks, fighting poverty, social exclusion and debt is a priority for this cabinet and the Dutch government has intensified its policies. For instance, additional structural funding has been made available – € 100 million structurally. Most of this is granted to municipalities. But they are not the only parties who contribute to sustainable solutions out of poverty. Therefore the Dutch government has also made extra money available for civil society organizations through a subsidy-scheme to encourage activities that will make a sustainable contribution to combating poverty and debt-related problems.

Three recent reports submitted to the European Commission provide a broad and up-to-date overview of how the Dutch government is investing in an inclusive, participating society. The National Social Report of 2014 describes the most important policy measures and reforms with regard to social inclusion, pensions, health care and long-term care. The National Reform Program of 2015 also singles out the policy measures aimed at increasing labor participation and the realization of an inclusive labor market. The Strategic Social Report of 2015 describes the commitment of the Dutch government and its cooperation with the local public and private stakeholders. The documents are publically available through the site³ of the European Commission.

³ <http://ec.europa.eu/social/main.jsp?catId=758>

CHAPTER II. Selection of the Article 65, 66 or 67 under C102/ECSS and determination of the Standard Reference Wage used for calculating the replacement level of benefits

- [Fig. 1. Article 65: Type of social security schemes and method of benefit calculation](#)
- [Fig. 2. Article 66: Type of social security schemes and method of benefit calculation](#)
- [Fig. 3. Article 67: Type of social security schemes and method of benefit calculation](#)
- [Extracts from the Government Reports \(2011-2015\) on the ECSS concerning the Reference Wage](#)
- [Table 1. Calculation of the reference wage under all options permitted by Articles 65-66 of the ECSS/C102](#)
- [Fig. 4. Comparison of the reported reference wage to other wage indicators in the Netherlands, 2010, euros](#)

Fig. 1. Article 65: Type of social security schemes and method of benefit calculation

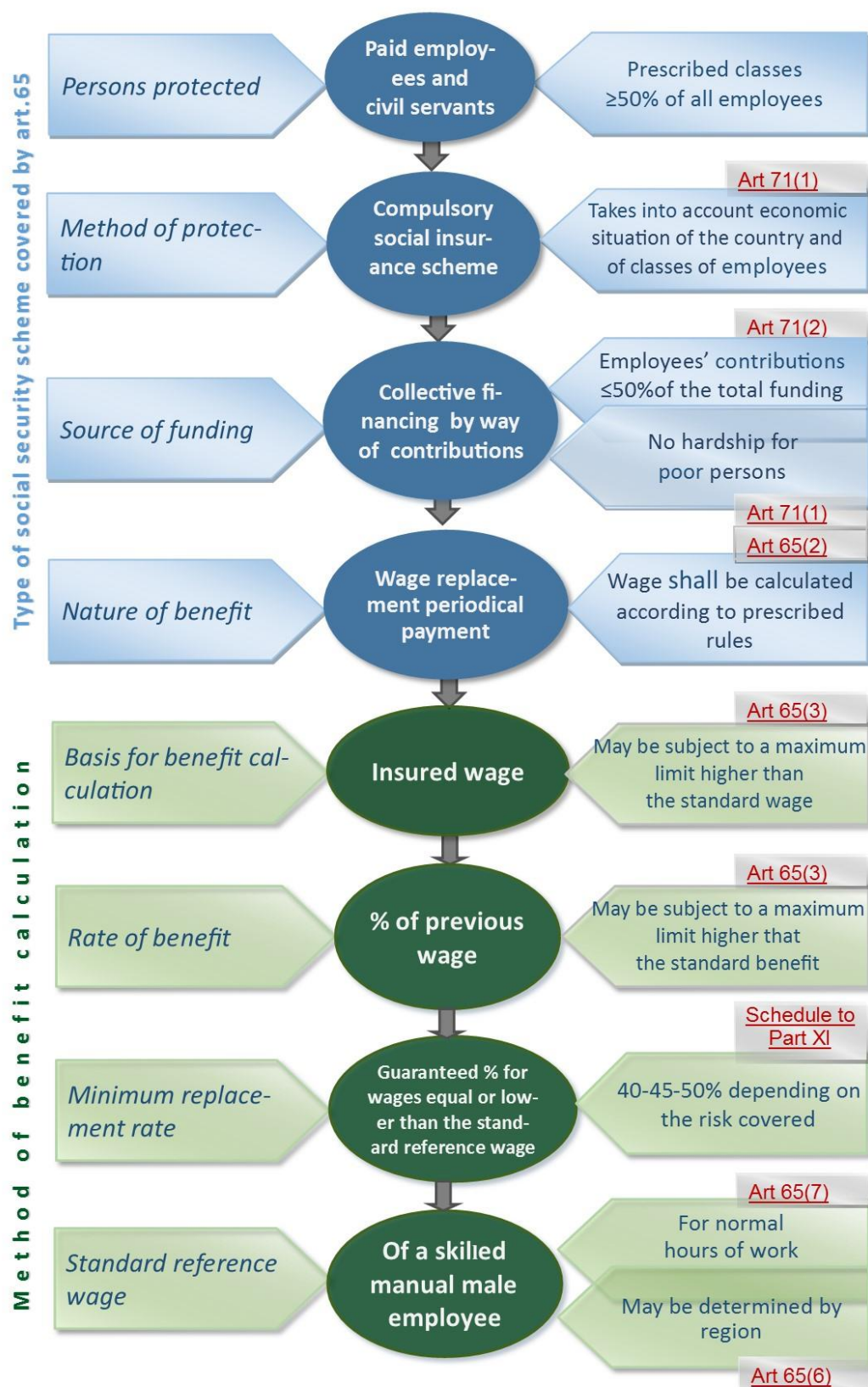


Fig. 2. Article 66: Type of social security schemes and method of benefit calculation

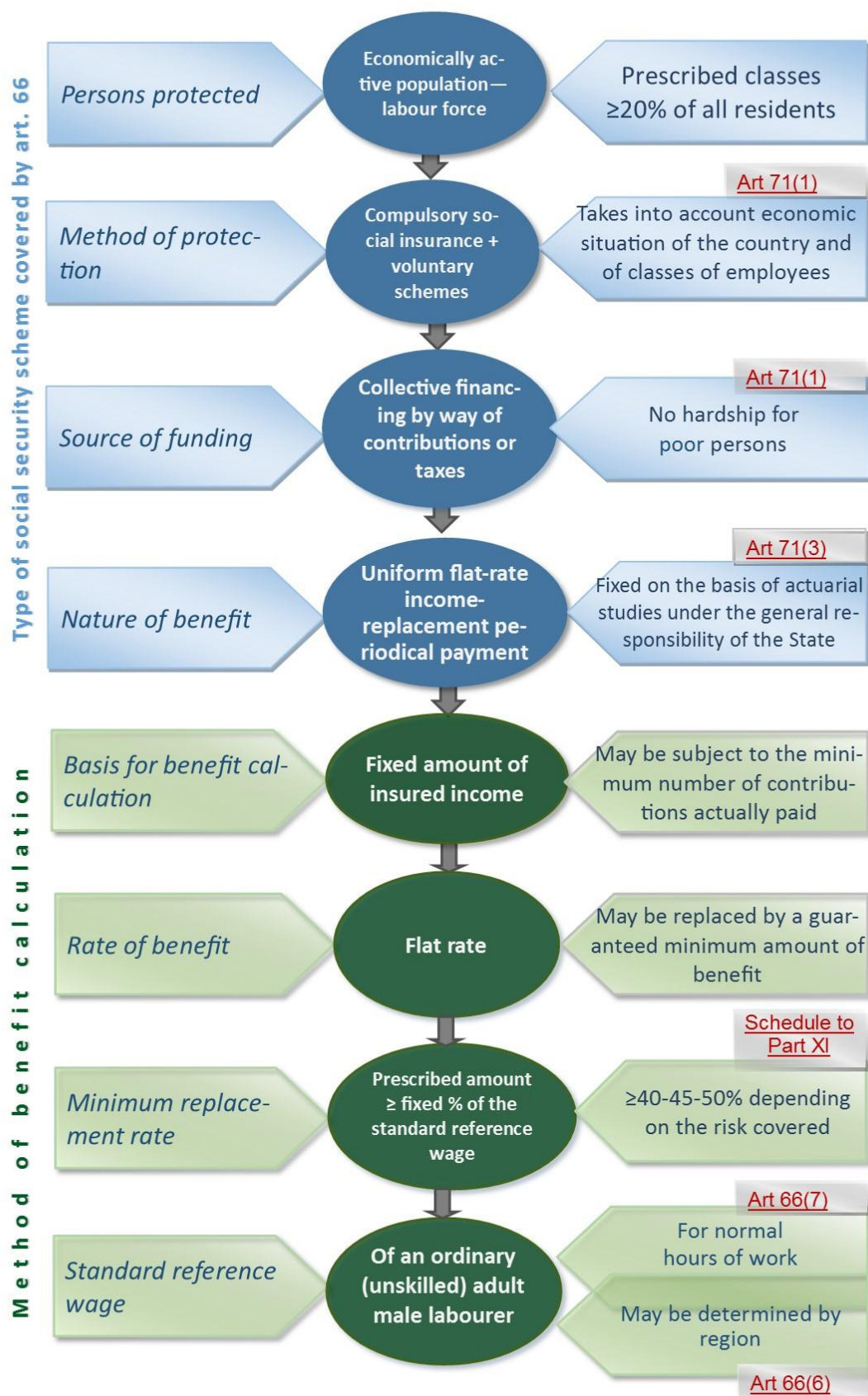
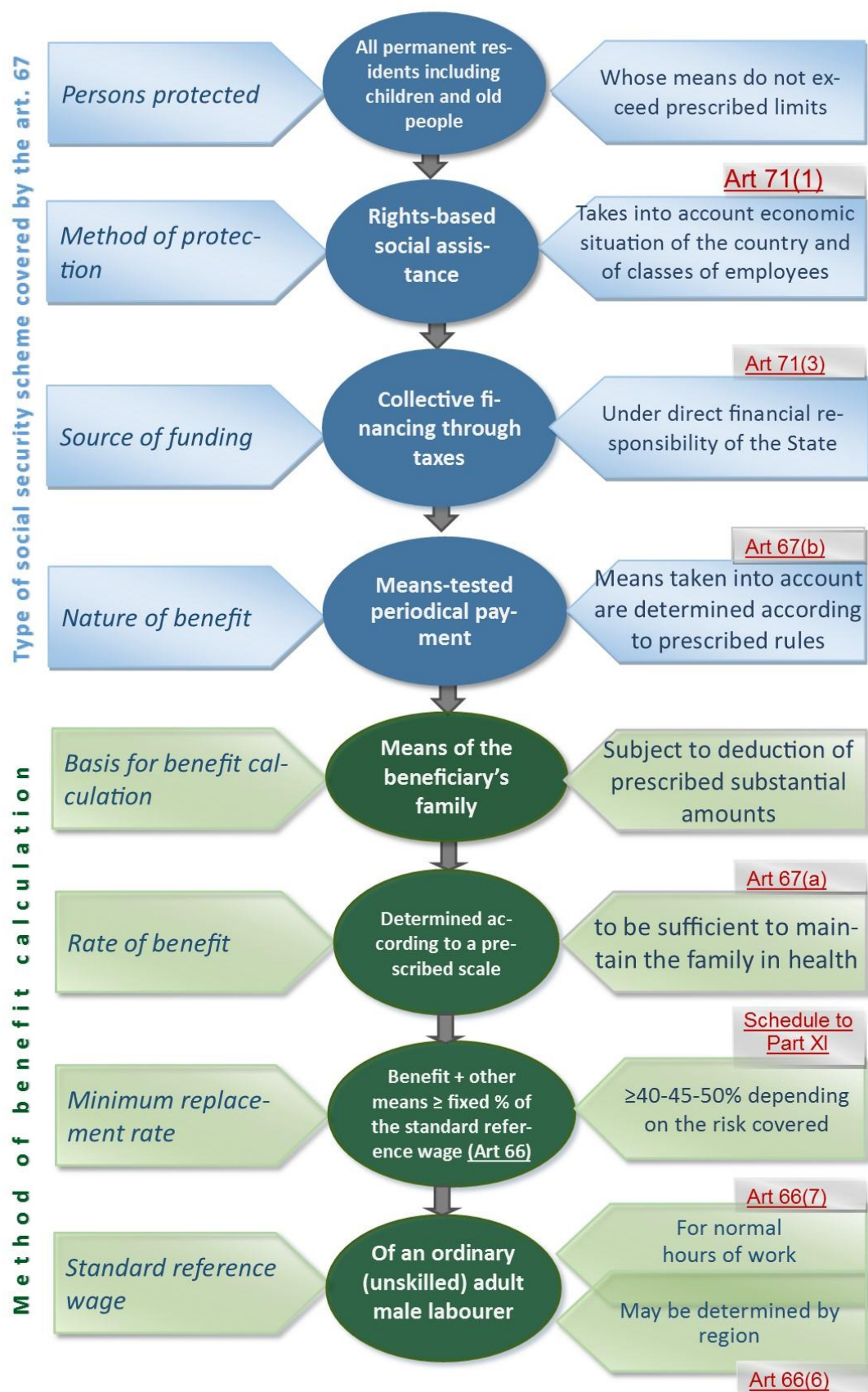


Fig. 3. Article 67: Type of social security schemes and method of benefit calculation



Extracts from the Government Reports (2011-2015) on the ECSS concerning the Reference Wage

Report of Netherlands under Article 74 of the European Code of Social Security and its Protocol (1 July 2014 - 30 June 2015)

Specific request 5: Determination of the reference wage

Concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66 of the Code, Determination of the reference wage, the Committee notes that according to the previous reports of the Government, the reference wage of the standard beneficiary used to calculate the replacement level of benefits for Parts III, IV, and VIII of the Code is determined under Article 65 for the skilled manual male employee as the so-called “modal income” (modaal inkomen) in the Netherlands calculated by the Central Planning Bureau and for Parts V, VII, IX and X under Article 66 for the ordinary manual male labourer as the Legal Minimum Wage established by the Ministry of Social Affairs and Employment.

The Committee of Ministers points out that both methods used for determining the reference wage of the skilled employee and ordinary labourer do not correspond to any of the options allowed by Articles 65 and 66 of the Code and result in the case of Article 66 in establishing the reference wage manifestly below the wage of an ordinary adult male labourer calculated on the basis of Eurostat data by applying the option admitted in Article 66(4)(b);

Answer Dutch Government

In the Netherlands the periodical payments can be divided into three categories, namely the salary-related benefits, the minimum benefits and the family benefits. The Netherlands will apply Article 65 of the Code to the salary-related benefits, with exemption of part IX and article 66 of the Code to the minimum benefits and the family benefits. This is shown in the table below:

Table 1

Art. 65 (6) b: a person deemed typical of skilled labour	A skilled employee of the ISIC rev. 4 group with the highest number of male employees: typical skilled male worker in manufacturing.	Part III, IV and VIII (Sickness benefit, Unemployment benefit and Maternity benefit)
Art 66(4) b: a person deemed typical of unskilled labour	An unskilled employee of the ISIC rev. 4 group with the highest number of male employees: typical unskilled male worker in manufacturing.	Parts V, VII, IX and X (Old-age benefit, Family benefit, Invalidity benefit and Survivors benefit)

Because of this division, this paragraph will be split into three parts, namely salary-related benefits, minimum benefits and family benefits. Each part will lead to a conclusion regarding the compliance to the European Code of Social Security. The time basis for all the amounts mentioned in this report is 1th of July 2015.

1. Salary-related benefits (art 65)

The salary-related benefits are related to the salary of the worker as shown in the table below:

Table 2

	percentage	Minimum benefit	Maximum benefit
Part III Sickness benefit	70%	€ 1628 per month ⁴	€ 3044 per month ⁵
Part IV Unemployment benefit	First 2 months: 75%; After that: 70%	€ 1628 per month ⁶	€ 3044 per month
Part VIII Maternity benefit	100%	€ 1628 per month	€ 3044 per month

The salary-related benefits are related to the salary of the worker, within a range of a minimum and maximum benefit. Therefore it is not possible to use a proxy for the reference wage of the skilled workers. The salary-related benefit is raised with an allowance if the benefit is below the prescribed social minimum in the so called allowance law (Toeslagenwet). In this way a 'model family' is guaranteed a minimum income of at least the minimum wage level.

In the Dutch Code Report-2013 the Netherlands had interpreted the Dutch implementation of our reference wages in such a way that we use the so-called modal wage as a proxy for the wage of a skilled worker as mentioned in Article 65 of the Code and the minimum wage as a proxy for the wage of a unskilled worker as mentioned in Article 66 of the Code.

The Technical Note was reason to review our proxys. Here are the results of this review.

Article 65 (6) b describes the use of the reference wage of the typical skilled male worker in manufacturing. The standard is calculated on € 2718 per month. The time basis is 2010.

In the table below the prescribed standard is shown:

Table 3

	percentage	Reference wage	Outcome
Part III Sickness benefit	45%	€ 2718	€ 1223
Part IV Unemployment benefit	45%	€ 2718	€ 1223
Part VIII Maternity benefit	45%	€ 2718	€ 1223

Conclusion:

Although the Netherlands don't use a reference wage in order to determine the salary-related benefits, the outcome (in terms of benefit level) is substantially higher than the

⁴ Minimum wage per month including holiday payment

⁵ 70% of the maximum monthly wages.

⁶ Staatscourant 2015 nr. 10678 20 april 2015

European Code requires. The periodical payments of parts III, IV and V are based on the actual wages the workers earn within a range of a minimum and maximum benefit. The minimum benefit is equal to the minimum wage for a model household (Man, wife and two children) and lies well above the standard of € 1223.

2. Minimum benefits (art. 66)

The Ministry of Social Affairs and Employment uses the *net* Legal Minimum Wage to determine the periodical payments of the so called minimum benefits (excluding family benefit) as shown in the table below:

Table 4

	Percentage of net minimum wage	Outcome
Part V Old-age benefit	100%	€ 1586 gross per month ⁷
Part X Survivors benefit	70%	€ 1224 gross per month

Table 5

The Invalidity benefit is related to the salary of the worker, within a range of a minimum and maximum benefit.

	percentage	Minimum benefit	Maximum benefit
Part IX Invalidity benefit	70% or 75% if the worker is > 80% invalide	€ 1628 per month	€ 3044 per month
Part IX sequel Invalidity benefit (vervolguitkering)	Between 28% and 50,75% of the minimum wage	€ 1628 per month	€ 1628 per month

Article 66 (4) b describes the use of the reference wage of the typical unskilled male worker in manufacturing. The reference wage is calculated on € 1928 per month. The time basis is 2010. In the table below is the prescribed standard shown:

Table 6

	percentage	Reference wage	Outcome
Part V Old-age benefit	40%	€ 1928	€ 771
Part X Survivors benefit	40%	€ 1928	€ 771
Part IX Invalidity benefit	40%	€ 1928	€ 771

Conclusion:

Comparing the outcomes of table 4 and 5 and 6 leads to the conclusion that the Netherlands comply with the standard prescribed by the European Code of Social Security for the periodical payments described in part V, IX and X. The Netherlands also comply with the

⁷ Including holiday payment

Code if Addendum 2 of the European Code of Social Security is applied on the parts V, IX and X as shown in table 7.

Table 7

	percentage	Reference wage	Outcome
Part V Old-age benefit	50%	€ 1928	€ 964
Part X Survivors benefit	50%	€ 1928	€ 964
Part IX Invalidity benefit	50%	€ 1928	€ 964

Report of Netherlands under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p. 10

The wage of the skilled manual male employee is determined on the basis of the so-called average wage (“modaal inkomen”) according to the figures provided by the Netherlands Bureau for Economic Policy Analyses (CPB, publication “Macro Economische Verkenningen”).

The time basis of the calculation is 30th June 2011.

The wage of the skilled manual male employee is determined at € 2,708.33 gross per month.

Report of Netherlands under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p. 15

An ordinary adult male labourer’s wage is equal to the amount of the minimum legal wage, which amounted to € 1,424.40 (gross) per month on 30th June 2011.

Committee of Experts Conclusions - 2012

Part XI (Standards to be complied with by periodical payments), Articles 65 and 66 of the Code. The Committee thanks the Government for explaining the methodology of determining the reference wage of the skilled and unskilled worker used for assessing the replacement rate of the Dutch benefits. According to the report, the Ministry of Social Affairs and Employment uses as a proxy for the wage of the skilled worker the so-called “modal wage” (modal inkomen), which is calculated by the Central Planning Bureau. The modal wage is not the same as the average wage: the modal wage is the average of the statistical intervals which contain the largest number of cases. *The Committee would be grateful if in its next report the Government would specify, with the help of the Central Planning Bureau and the technical advice from the Council of Europe and the ILO, if necessary, to what extent “the average of the statistical intervals which contain the largest number of cases” corresponds to 125 per cent of the average earnings of all employees in the country or to the other two options for determining the reference wage of the skilled worker mentioned in paragraph 6 of Article 65 of the Code.*

The report further indicates that the Ministry of Social Affairs and Employment uses as a proxy for the wage of the unskilled worker the Legal Minimum Wage, which is determined by the same Ministry. The determination is not so much labour market related, but is predominantly determined by political factors, because the Legal Minimum Wage is linked to the so-called “social minimum” in the Dutch social system. In most collective labour agreements the real sectoral minimum wages are considerably higher and lie around 120–130 per cent of the Legal Minimum Wage. Because of this, the use of the Legal Minimum Wage as proxy underestimates the wages of the unskilled workers.

The Committee notes this explanation with concern as underestimating the wages of the unskilled workers, which are taken by the Code as a reference for assessing the replacement level of the Dutch social benefits, by as much as 30 per cent, might have led and continue to lead the supervisory bodies to false conclusions on whether the Dutch social benefits actually attain the minimum level fixed by the Code.

The Committee further notes that one of the reasons why the Government continues to use the Legal Minimum Wage as proxy for the reference wage under the Code consists in that it is technically difficult and very time consuming and expensive to calculate an average minimum wage based on all the different wages used in more than 100 collective labour agreements. The Committee wishes to point out that the Code does not require the Government to undertake such a cumbersome exercise: its requirements are much more simple and straightforward and, in difference with the above approach, are based on the actual labour market data and not influenced by political factors. According to Article 66 of the Code, the Government has an option to determine the standard wage of the typical unskilled worker by reference to collective agreements in only one sector of economic activity expressly specified in paragraph 4 of this Article – manufacture of machinery other than electrical machinery or such other industry which employs the largest number of male employees. *In order to further simplify the task of the Government in this respect, the Committee considers that it could be enough for the Government at the present stage to supply with its next report copies of the wage related provisions of the collective agreements in the said sectors of economic activity together with any available statistical information on the wages paid in these sectors.*

Report of Netherlands under Article 74 of the European Code of Social Security and its Protocol (1 July 2012 - 30 June 2013), p. 13-15

To what extent corresponds the modal wage to 125% of the average earnings of all employees?

In the Netherlands, there is no exact measure for ‘average earnings of all employees’. Therefore, it is hard to say to what extent the modal wage corresponds with 125% of the average earnings of all employees.

In the Netherlands the Central Bureau for Statistics calculates the average income.

- 1) If all inhabitants of the Netherlands are taken into account, 125% of average income equals €27 875 per year in 2011. This category includes people with income from labour (employees and self-employed), income from social benefits and people without any income (such as children).
- 2) If only people with income from paid labour (employees and self-employed) and social benefits are taken into account the 125% of average income equals €35 875 in 2011.
- 3) If only all working persons (employees and self-employed) are taken into account the 125% of average earnings equals €43 625 in 2011.

Within the framework of this discussion, in the view of the Netherlands the second method (people with income) is the most appropriate. The first method underestimates the income because it includes persons without any income. The third method overestimates the income because it includes the incomes of the self-employed persons. The outcome of the second method is close to the modal income in the Netherlands. According to the Central Planning Bureau the Gross modal income equals €33.500 in 2011 (CEP, 2013).

It should also be mentioned that all three measures are gross income measures. The difference between skilled and unskilled workers is smaller when net income measures are used.

The Committee of Experts considers that it could be enough to supply with its next report copies of the wage related provisions of the collective agreements in the mentioned sectors together with any available statistical information on the wages paid in these sectors.

We asked the Central Bureau for Statistics to calculate the average primary income and the average personal income of all the male employees in the active labour force ('active' in this case means working more than 12 hours per week) compared to the male workers (also working more than 12 hours per week) employed in the machinery industry (the reference group for a skilled worker in the Code).

The results of this calculation for 2012 are as follows: the machinery industry counts only 63.000 male workers (working more than 12 hours per week). In the machinery industry the average primary income is €. 60.000 (compared to €. 54.300 for all male workers in the total active labour force). The average personal income in the machinery industry is €. 48.800 (compared to €. 44.600 for all male workers in the total active labour force (source: CBS, June 2013).

This leads the Ministry of Social Affairs and Employment to the conclusion that in the Netherlands the modal wage is a more accurate indicator for the income of a skilled worker than the (relatively too high) wages earned by male workers in the machinery industry. This also because the number of male workers in this sector is low (which leads to problems with statistical representativity).

In the Annex to this report we include copies of the wage related provisions of three collective agreements in the mentioned sectors. These wage related provisions contain tables with different salary scales (annual salaries per salary group), but there are no data available on how many individuals are paid according to each salary scale/group.

Committee of Experts Conclusions - 2013

Part XI (Standards to be complied with by periodical payments), Articles 65 and 66 of the Code. The Committee notes that the Governmental Committee of the European Social Charter and the European Code of Social Security (127th Session, May 2013) has requested the ILO to undertake a comparative study on the methodology for determining the reference wage of the standard beneficiary used by the ratifying countries for the calculation of the replacement rate of benefits. The Committee hopes that this study will be carried out early in 2014 and will permit the Committee to better assess the application of Part XI of the Code in the changed economic and labour market conditions in the European countries. The Committee will consider the information supplied by the Dutch Government concerning the methodology for determining the reference wage of the skilled and unskilled worker in the light of this study.

Table 1. Calculation of the reference wage under all options permitted by articles 65-66 of the ECSS/C102

Articles in the ECSS/C.102		Comments	Reference wage: amount	
			ILO calculations ⁸ -2010	Government ⁹
Article 65 (para 6): <u>a skilled manual male employee</u>				
Option 1	Art.65 (6)a: a fitter or turner in the manufacture of machinery other than electrical machinery	occupations of fitter and turner can be found among skilled employees of ISCO 08 ¹⁰ (group 7)	N/A	
Option 2	Art.65 (6)b: a person deemed typical of skilled labour	a skilled employee of the ISIC rev.4 ¹¹ group with the highest number of male employees: typical skilled male worker in manufacturing	2718 euros ¹²	Parts III, IV, VIII: Modal wage of the skilled manual male employee – WILL NOT BE USED (consultations with the Government) 2708.33 euros ¹³ - 30th June 2011
Option 3	Art.65 (6)c: a person whose earnings are equal to 125 per cent of the average earnings of all the persons protected	in countries where all employees are protected average wage is normally used	2851 euros ¹⁴ (full-time and part-time employees)	
Article 66 (para 4): <u>an ordinary manual male labourer</u>				
Option 4	Art.66 (4)a: a person deemed typical of unskilled labour in the manufacture of machinery other than electrical machinery	an employee of the ISIC rev.4 Manufacture of machinery (2-digit level of the classification: ISIC Rev.4 Section C. Manufacturing, code 28)	N/A	
Option 5	Art.66 (4)b: a person deemed typical of unskilled labour	an unskilled employee of the ISIC rev.4 group with the highest number of male employees: typical unskilled male worker in manufacturing	1928 euros ¹⁵	Parts V, VII, IX: An ordinary adult male labourer's wage is equal to the amount of the minimum legal wage, which amounted to €1,424.40 ¹⁶ (gross) per month on 30th June 2011

* Gross wages are used unless stated otherwise

⁸ ILO calculations based on EUROSTAT data from Labour Force Survey - LFS-2013 and SES-2010 (see detailed information further)

⁹ Reference wage reported by the Government on the application of ECSS and C.102

¹⁰ ISCO 08 – International Standard Classification of Occupations 2008 (detailed explanation to follow)

<http://www.ilo.org/public/english/bureau/stat/isco/isco08/>

¹¹ ISIC rev.4 - International Standard Industrial Classification of All Economic Activities, Rev.4, 2008

<http://unstats.un.org/unsd/cr/registry/isc-4.asp>

¹² Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

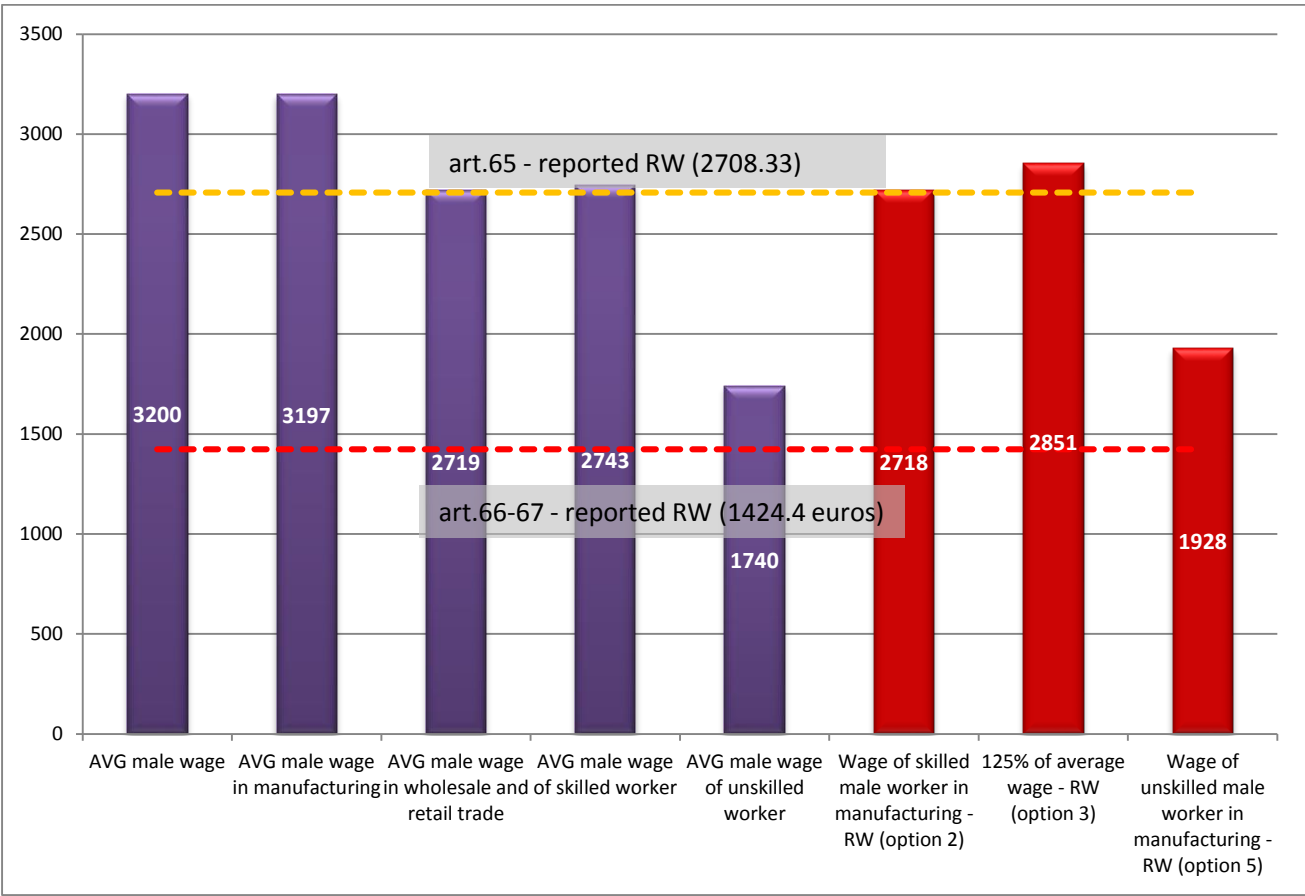
¹³ Report of Netherlands under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p. 10

¹⁴ Structure of earnings survey (SES) – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en

¹⁵ Structure of earnings survey – Eurostat, 2010 http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en

¹⁶ Report of Netherlands under Article 74 of the European Code of Social Security and its Protocol (1 July 2010 - 30 June 2011), p. 15

Fig. 4. Comparison of the reported reference wage to other wage indicators in the Netherlands, 2010, euros




Source: Eurostat SES - http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses10_48&lang=en and http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=earn_ses_monthly&lang=en for option 3 – 125% of average wage (working time: include both full-time and part-time employees)


CHAPTER III. Integrated Management of compliance and reporting obligations of the Netherlands under social security provisions of the ratified international treaties on social rights

- [Table 1. Up-to-date social security standards in force](#)
- [Table 2. Pending comments of the supervisory bodies](#)
- [Table 3. Up-to-date standards on which reports are due in 2016](#)
- [Table 4. Up-to-date standards on which reports are due in 2017](#)
- [Next detailed report of the Netherlands under Article 74 of the ECSS. \(Extract from CEACR 2015 Conclusions\)](#)
- [Parts of Convention No.102 no longer applicable following ratification of more advanced standards](#)
- [Coordination of reporting between the ECSS and C102. Form for the annual report on the European Code of Social Security](#)
- [Table 5. Coordination of reporting obligations on up-to-date ILO social security Conventions ratified by the Netherlands](#)
- [Fig. 1. Time management of the 5 years reporting cycle \(2011-2016/17\) on international and European social security standards](#)
- [Fig. 2. Time management for reporting on social security standards in 2016](#)

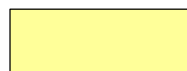
Table 1. Up-to-date social security standards in force

Social Human Rights International treaties	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
	<i>Right to Social Security Art.9</i>										
ICECSR	Art.12		Art.6		Art.7§b	Art.10 §1§3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16, 27§1b,c	Art.8§1	Art.15§1§3		Art.4§1, 13§1§2§3, 14, 30	
	<i>Right to Social Security Art.12§1§2§3</i>										
Protocol	<i>II</i>	<i>III</i>	<i>IV</i>	<i>V</i>	<i>VI</i>	<i>VII</i>	<i>VIII</i>	<i>IX</i>	<i>X</i>	<i>Schedule to XI</i>	
ECSS	<i>Medical care Part II</i>	<i>Sickness benefit Part III</i>	<i>Unemployment benefit Part IV</i>	<i>Old-age benefit Part V</i>	<i>Employment injury benefit Part VI</i>	<i>Family benefit Part VII</i>	<i>Maternity benefit Part VIII</i>	<i>Invalidity benefit Part IX</i>	<i>Survivor's benefit Part X</i>	<i>Level of benefits Part XI</i>	<i>Financing & Organization Part XII</i>
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

 Social Security Standards in force for the Netherlands

 Social Security Standards not in force

Social Human Rights International treaties	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
	Right to Social Security Art.9										
ICECSR	Art.12		Art.6		Art.7§b	Art.10 §1§3	Art.10§2			Art.7§a§ii Art.11§1	Art.2§1 Art. 4, 5
					CRPD	CRC	CEDAW	CRPD			
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	☹️ Art.23	Art.3 ☹️ Art.15§2	☹️ Art.16 Art.27 §1b,c	Art.8§1	Art.15 §1§3		☹️ Art.4§1 Art.13§1§2 §3, 14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing & Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	☹️ C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Pending comments of the supervisory bodies



critical comments or non-compliance

Table 2. Pending comments of the supervisory bodies

Table 3. Up-to-date standards on which reports are due in 2016

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10 §1 §3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3	Art.16, 27§1b,c	Art.8§1	Art.15§1§3		Art.4§1	
					Art.15§2					Art.13§1§2 §3, 14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII



Report in 2016

<div>Social Human Rights</div> <div>International treaties</div>	Right to health		Right to work		Right to just conditions of work	Right of the family and children to protection	Right of mothers to protection	Rights of persons with disabilities		Right to an adequate standard of living	Financing & Organization
ICECSR	Right to Social Security Art.9										
	Art.12		Art.6		Art.7§b	Art.10 §1 §3	Art.10§2			Art.7§a§ii, 11§1	Art.2§1, 4, 5
UN Conventions					CRPD	CRC	CEDAW	CRPD			
ESC Revised	Art.11, 13§1		Art.1§1§3	Art.23	Art.3, 15§2	Art.16, 27§1b,c	Art.8§1	Art.15 §1 §3		Art.4§1	
										Art.13§1§2 §3, 14, 30	
	Right to Social Security Art.12§1§2§3										
Protocol	II	III	IV	V	VI	VII	VIII	IX	X	Schedule to XI	
ECSS	Medical care Part II	Sickness benefit Part III	Unemployment benefit Part IV	Old-age benefit Part V	Employment injury benefit Part VI	Family benefit Part VII	Maternity benefit Part VIII	Invalidity benefit Part IX	Survivor's benefit Part X	Level of benefits Part XI	Financing& Organization Part XII
C102	Part II	Part III	Part IV	Part V	Part VI	Part VII	Part VIII	Part IX	Part X	Part XI	Part XIII
ILO Conventions					C121					C121 Art.19-21	C121 Art.22-26
				C128 Part III				C128 Part II	C128 Part IV	C128 Part V	C128 Part VI
	C130 Part II	C130 Part III								C130 Part III	C130 Part IV
			C168				C183 Art.6,7			C168 Art.15,16	C168 Part VIII

Report in 2017

Table 4. Up-to-date standards on which reports are due in 2017

Next detailed report of the Netherlands under Article 74 of the ECSS. *(Extract from CEACR 2015 Conclusions)*

In accordance with the reporting cycle on the Code, in July–August 2016 the Government shall submit a detailed report covering the period of five years from 1 July 2011 to 30 June 2016. In accordance with the reporting cycle on Convention No. 102, in June–August 2016 the Government shall also submit a detailed report for the period from 1 June 2011 to 31 May 2016. The Committee draws the Government's attention to the alignment of the reporting obligations under the Code and Convention No. 102 and to the similarity of the Report Forms on both instruments, the objective of which is to reduce the administrative workload and avoid duplication of reports. For this purpose, the Report Form on the Code expressly stipulates that, if a Government is bound by similar obligations as a result of having ratified the ILO Convention No. 102, "it may communicate to the Council of Europe copies of the reports it submits to the International Labour Office on the implementation of this Convention". Where certain parts of Convention No. 102 have ceased to be applicable due to ratification of the corresponding parts of the more advanced Conventions Nos 121, 128 and 130, the Government may equally communicate to the Council of Europe copies of its reports on these Conventions. The Committee points out that this simplified procedure can be used next year to report on all accepted parts of the Code except Part IX, and refers the Government to the tables in the ILO technical note concerning coordination of reporting obligations. Conversely, the information provided by the Government in its annual reports on the Code is regularly taken into account by the Committee in assessing the application of Conventions Nos 102, 121, 128, 130 and 183.

Furthermore, by 31 October 2016, the Netherlands will also report on the application of the accepted provisions of the European Social Charter under the thematic group "Health, social security and social protection", which includes the right to protection of health (Article 11), the right to social security (Article 12), the right to social and medical assistance (Article 13), the right to benefit from social welfare services (Article 14), the right of elderly persons to social protection (Article 23), and the right to protection against poverty and social exclusion (Article 30). The Committee observes that these articles of the Charter are directly related to many provisions of the Code and ILO social security Conventions, which form a single legal space of international social security law. Taking into account that the reference period for the report on the Charter (1 January 2012–31 December 2015) falls inside the reference periods for detailed reports on the Code and Convention No. 102, the Government is invited to coordinate the fulfilment of its compliance and reporting obligations under these instruments in order to improve the quality and consistency of the information provided. Such coordination could be extended further to include future reporting on the social security provisions of the United Nations human rights treaties, including the International Covenant on Economic, Social and Cultural Rights.

With regard to coordination of compliance obligations, the Committee recalls that, in formulating its country conclusions on the application of the Code, it takes account of the relevant observations made by other supervisory bodies, such as the European Committee of Social Rights and the United Nations Committee on Economic, Social and Cultural Rights. To facilitate the integrated management of the Netherlands' obligations under the social security provisions of the main European and international treaties on social rights, the Committee refers the Government to the coordination tables and reporting timelines presented in the ILO technical note, together with the structured compilation of the comments made by their supervisory bodies. The Committee hopes that such a holistic vision will help the Government to apply the rights-based approach to its fiscal consolidation policy and complement it by the legal consolidation of all international obligations binding the Netherlands to the full respect of social security rights.

Parts of Convention No.102 no longer applicable following ratification of more advanced standards

C102 - Social Security (Minimum Standards)

Article 75

If any Convention which may be adopted subsequently by the Conference concerning any subject or subjects dealt with in this Convention so provides, such provisions of this Convention as may be specified in the said Convention shall cease to apply to any Member having ratified the said Convention as from the date at which the said Convention comes into force for that Member.

C121 - Employment Injury Benefits → C102, Part IV

Article 29

In conformity with Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part VI of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention comes into force for that Member, but acceptance of the obligations of this Convention shall be deemed to constitute acceptance of the obligations of Part VI of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention

C128 - Invalidity, Old-Age and Survivors' Benefits → C102, Parts V, IX, X

Article 45

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, the following Parts of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 38 is in force:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 38 is in force, be deemed to constitute acceptance of the obligations of the following parts of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention:

- (a) Part IX where the Member has accepted the obligations of this Convention in respect of Part II;
- (b) Part V where the Member has accepted the obligations of this Convention in respect of Part III;
- (c) Part X where the Member has accepted the obligations of this Convention in respect of Part IV.

C130 - Medical Care and Sickness Benefits → C102, Part III

Article 36

1. In conformity with the provisions of Article 75 of the Social Security (Minimum Standards) Convention, 1952, Part III of that Convention and the relevant provisions of other Parts thereof shall cease to apply to any Member having ratified this Convention as from the date at which this Convention is binding on that Member and no declaration under Article 3 is in force.

2. Acceptance of the obligations of this Convention shall, on condition that no declaration under Article 3 is in force, be deemed to constitute acceptance of the obligations of Part III of the Social Security (Minimum Standards) Convention, 1952, and the relevant provisions of other Parts thereof, for the purpose of Article 2 of the said Convention.

C130, Part II → C102, Part II

N.B! For information and reporting purposes, more advanced provisions on medical care contained in C130 include all those contained in Part II of C102.

C168 → C102, Part IV

N.B! For information and reporting purposes, more advanced provisions on unemployment benefit of C168 include those contained in Part IV of C102.

Coordination of reporting between the ECSS and C102

Form for the annual report on the European Code of Social Security (as modified by the Protocol additional thereto)

If a Government is bound by similar obligations as a result of having ratified the Social Security (Minimum Standards) Convention adopted by the 1952 General Conference of the International Labour Organisation, it may communicate of the Council of Europe copies of the reports it submit to the International Labour Office on the implementation of this Convention.

Council of Europe, Strasbourg 1967

Table 5. Coordination of reporting obligations on up-to-date ILO social security Conventions ratified by the Netherlands

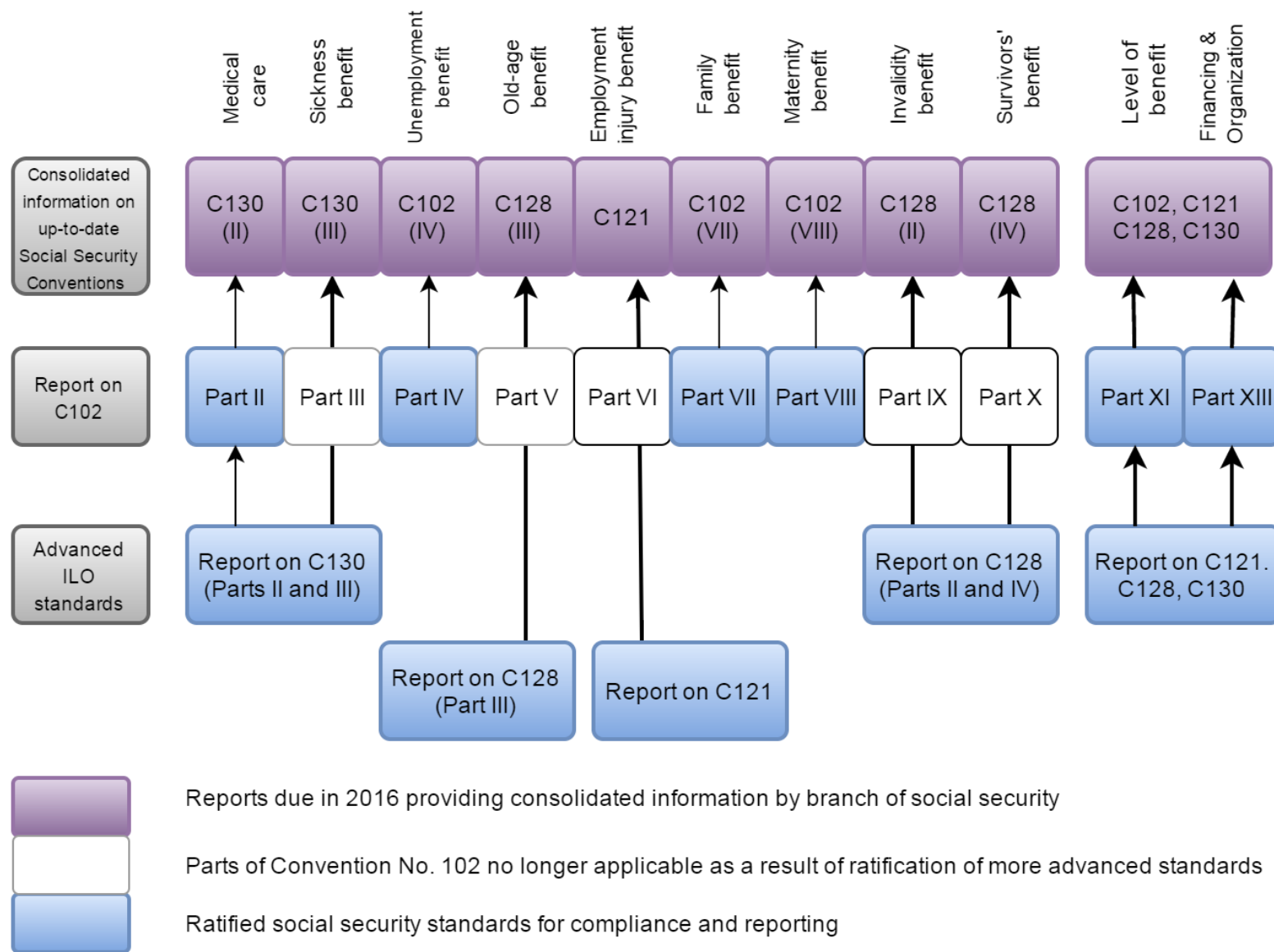
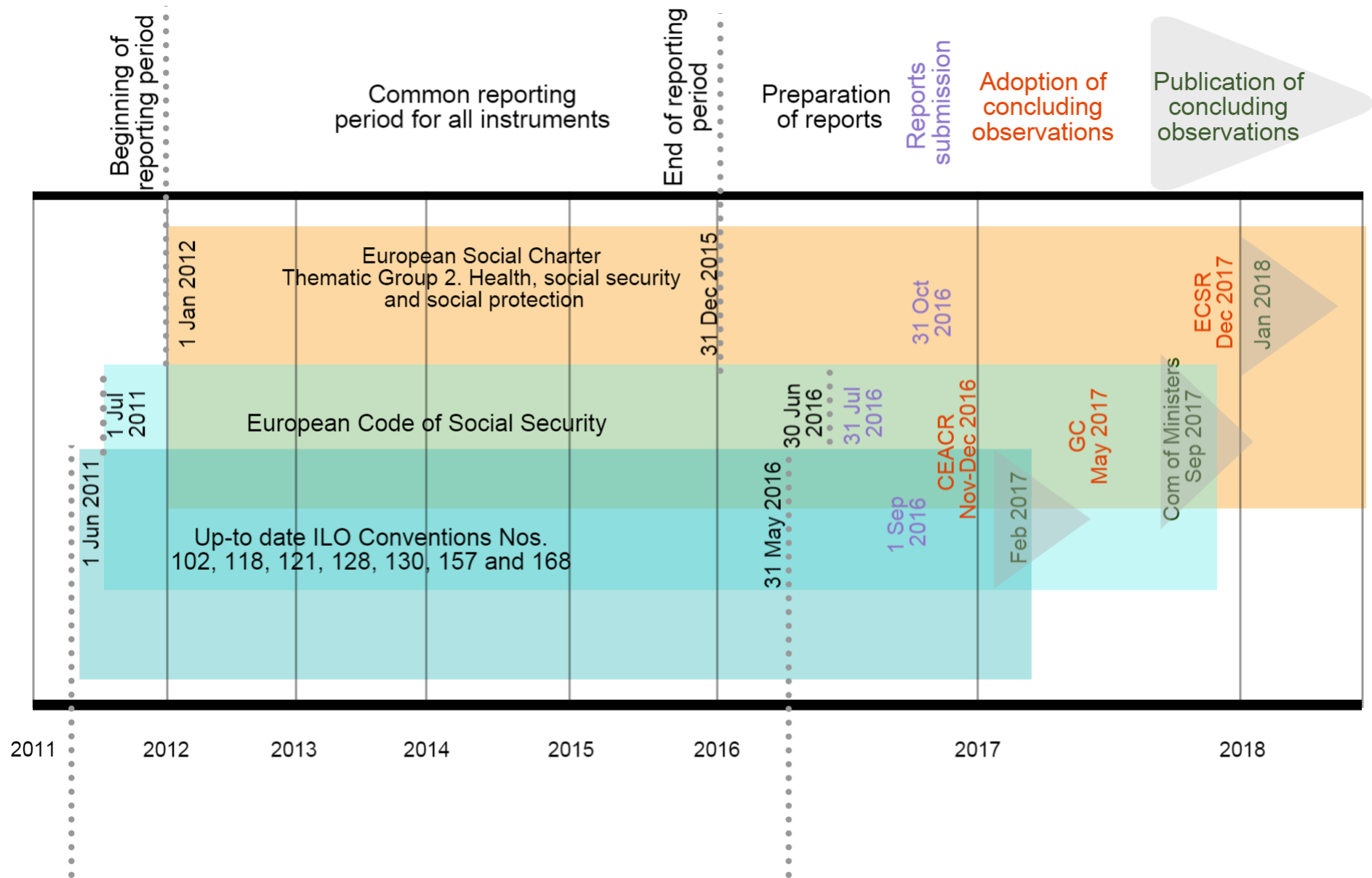


Fig. 1. Time management of the 5 years reporting cycle (2011-2016/17) on international and European social security standards



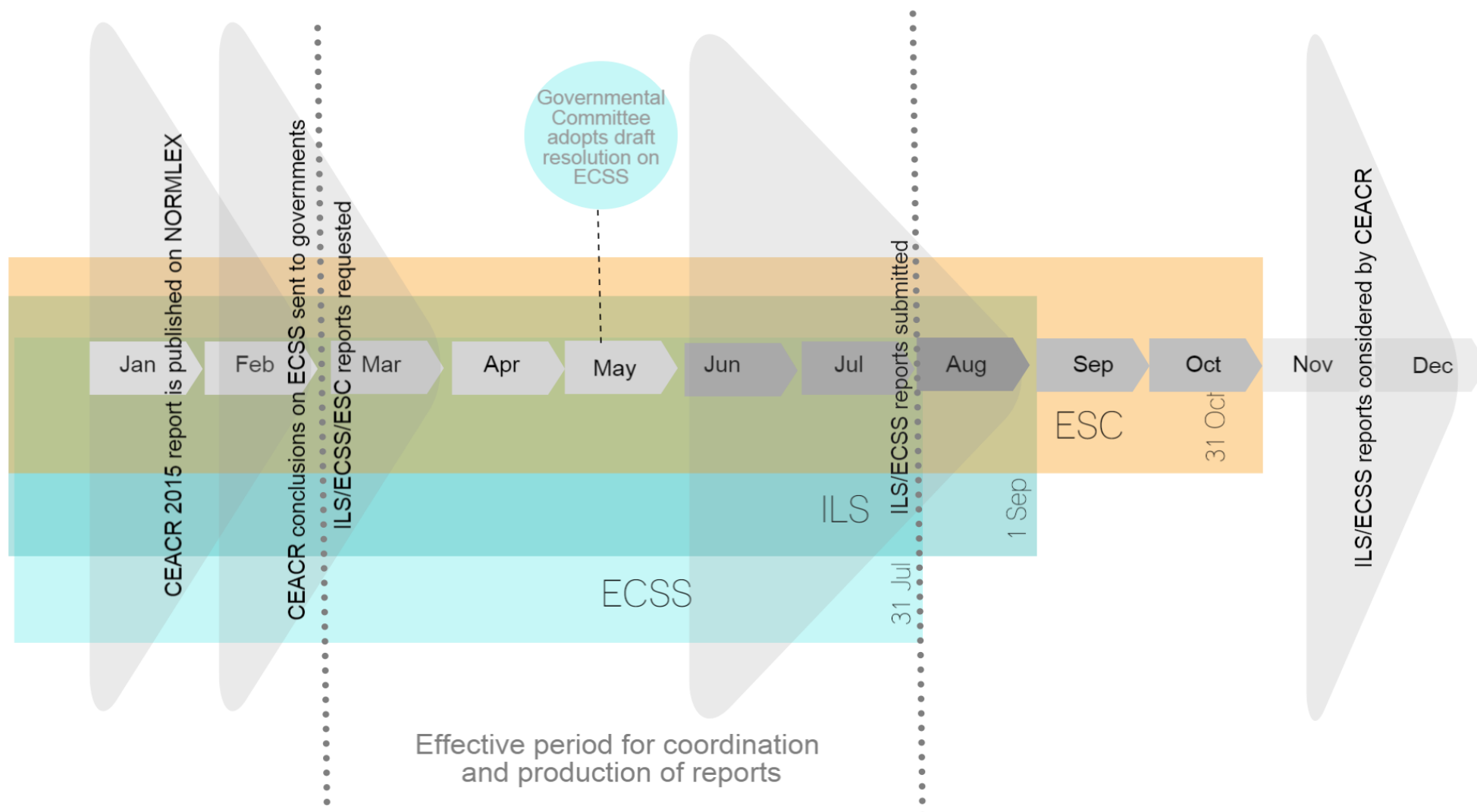


Fig. 2. Time management for reporting on social security standards in 2016

Chapter IV. Concluding observations of the supervisory bodies concerning provisions of the ratified international treaties on social rights and statements of other international bodies reviewing national economic and social policy

- [Table 1. International treaties on social rights ratified by the Netherlands](#)
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1. [United Nations](#)

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- [European Social Charter](#)
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3. [International Labour Organization](#)

- [Social Security \(Minimum Standards\) Convention, 1952 \(No. 102\)](#)
- [Employment Injury Benefits Convention, 1964 \(No. 121\)](#)
- [Medical Care and Sickness Benefits Convention, 1969 \(No. 130\)](#)
- [Maternity Protection Convention, 2000 \(No. 183\)](#)

4. [EU Country-Specific Recommendations: 2015](#)

Table 1. In force international treaties on social rights ratified by the Netherlands

Body	Treaty	Entry into force for Netherlands	Next report due on
United Nations	ICESCR	11 Dec 1978	30 Jun 2015, delayed
	Convention on the Rights of the Child	6 Feb 1995	6 Sep 2020
	Convention on the Elimination of All Forms of Discrimination against Women	23 Jul 1991	Submitted 28 Oct 2014, tbc in 2016
	Convention on the Rights of People with Disabilities	Signed, not ratified	
Council of Europe	European Code of Social Security	3 May 2006	1 Jul – 31 Aug 2016
	European Social Charter	17 Mar 1968	31 Oct 2015
International Labour Organization	Convention 102	11 Oct 1962	1 Jun - 1 Sep 2016
	Convention 103	18 Sep 1981	Automatic Denunciation by C183
	Convention 121	2 Aug 1966	1 Jun - 1 Sep 2016
	Convention 128	27 Oct 1969	1 Jun - 1 Sep 2016
	Convention 130	17 Jan 2006	1 Jun - 1 Sep 2016
	Convention 168	Not ratified	
	Convention 183	15 Jan 2009	1 Jun - 1 Sep 2018
European Union	Country-Specific Recommendation of 14 July 2015		

Table 2. Monitoring Mechanisms of State Party Compliance and Reporting Obligations

Instrument	Supervisory body	Type of a State party report/Reporting cycle	Comments of a supervisory body
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	Periodic reports – every 5 years; initial report – within one year after the entry into force (Art.17)	Concluding observations of the CESCR
Convention on the Rights of the Child	Committee on the Rights of the Child (CRC)	Periodic reports – every 5 years; initial report – within two years after the entry into force (Art.44)	Concluding observations of the CRC
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women (CEDAW)	Periodic reports – every 4 years; initial report – within one year after the entry into force (Art.18)	Concluding observations of the CEDAW
Convention on the Rights of People with Disabilities	Committee on the Rights of Persons with Disabilities (CRPD)	Periodic reports – every 4 years; initial report – within two years after the entry into force (Art.35)	Concluding observations of the CRPD
European Code of Social Security (ECSS)	ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; European Committee on Social Rights (ECSR) ; Governmental Committee of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Full reports – every five years in conjunction with the ILO Convention 102; Annual reports every year (Art.74).	Conclusions of the CEACR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
European Social Charter/ Revised European Social Charter (ESC)	European Committee on Social Rights (ECSR) ; Governmental Committee (GC) of the European Social Charter and the European Code of Social Security; Committee of Ministers of the Council of Europe.	Normal reports – annually on one of four thematic groups; simplified reports – every two years in case of acceptance of the collective complaints procedure.	Conclusions (national reports) and decisions (collective complaints) of the ECSR; Report and recommendations of the GC; Resolutions of the Committee of Ministers.
ILO Conventions (C102, C121, C128, C130, C168, C183)	Committee of Experts on the Application of Conventions and Recommendations (CEACR) ; Conference Committee on the Application of Standards (CAS) .	Five-year cycle – simplified reports under the ILO technical conventions; detailed report – one year following the entry into force.	Observations and direct requests of the CEACR; Conclusions of the CAS.

1. United Nations

International Covenant on Economic, Social and Cultural Rights – Concluding observations 2010

(the numeration of comments is kept in accordance to the original)

[*UN Office of the High Commissioner for Human Rights website link, Treaty bodies database*](#)

5. The Committee is concerned at the unequal enjoyment of economic, social and cultural rights among the four constituent countries of the State party (art. 2, paras. 1 and 2).

As the State party is accountable for the implementation of the Covenant in all its territories, the Committee urges it to ensure the equal enjoyment of the economic, social and cultural rights by all individuals and groups under its jurisdiction. This entails an obligation for the State party to ensure that all its enactments and policies should provide for all the same level of enjoyment of economic, social and cultural rights. Moreover, the principle of “maximum available resources” should apply to the State party and not to its constituent countries individually. The Committee requests the State party to provide information on practical measures adopted and implemented in this regard in its next periodic report.

17. The Committee is concerned that, in all the constituent countries of the State party, domestic workers do not enjoy the same protection as other workers and are in a disadvantaged position in that their employers do not contribute to the payment of their health insurance and pensions, as employers do in other sectors (art. 7 and 9).

The Committee calls on the State party to adopt remedial measures, legislative or otherwise, to bring the rights and benefits accorded to domestic workers in line with those afforded to other workers, particularly in terms of social security benefits.

20. The Committee is concerned that the long period of affiliation required in order to receive the full public pension in the Netherlands is discriminatory to migrant workers working in the State party. The Committee is further concerned at the risk of poverty for pensioners, as the amount of the full pension is at the level of the minimum wage (arts. 9 and 11).

The Committee calls on the State party to end discrimination against migrant workers with regard to pension rights. The Committee also calls on the State party to assess the impact of its enactments regarding old-age pension on the standard of living of pensioners, bearing in mind the increasing mobility of workers. The Committee draws the attention of the State party in this regard to its general comment No. 19 (2007) on social security.

24. The Committee notes with concern that pockets of poverty exist in all the constituent countries of the State party. Moreover, the Committee is concerned that Aruba, Curaçao and St. Maarten have not yet adopted either official poverty lines or strategies or action plans to combat poverty (art. 11).

The Committee urges the State party to combat poverty and social exclusion by targeting disadvantaged and marginalized groups, such as single parent families, migrants and children, and reiterates its recommendation calling on the State party to:

Establish, for each constituent country, an official poverty line which would enable the State party to assess the extent of poverty and monitor and evaluate progress; and

Draw up and implement anti-poverty strategies and action plans, taking full account of economic, social and cultural rights.

In this regard, the Committee refers the State party to its statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/2002/22-E/C.12/2001/17, annex VII), adopted in 2001. The Committee also requests the State party to provide in its next periodic report disaggregated and comparative, annually collected data on the number of individuals and households living in poverty, and on progress made in combating poverty.

Convention on the Rights of the Child – Concluding observations 2009

[*UN HCHR website link, Treaty bodies database*](#)

The Committee welcomes the allocation of extra resources for the identification and support of families and children at risk in the Netherlands. The Committee is however concerned at the lack of resources in Aruba and the Netherlands Antilles, for instance concerning children with disabilities and children in need of alternative care.

The Committee recommends that the State party, in accordance with article 4 of the Convention, allocate the maximum extent of available resources for the implementation of children's rights, with a special focus on eradicating poverty and that it reduce inequalities across all jurisdictions. In this endeavour, the State party should take into account the Committee's recommendations following its 2007 Day of General Discussion on Resources for the Rights of the Child - Responsibility of States."

Convention on the Elimination of All Forms of Discrimination against Women – Concluding observations 2010

[*UN OHCHR website link, Treaty bodies database*](#)

Employment and economic empowerment

36. While noting the various measures taken by the Netherlands to support the participation of women in the labour market and to facilitate the reconciliation of family and work life, the Committee expresses concern about the insufficient progress made in combating the structural inequality and serious disadvantages that women continue to experience in the labour market. The Committee is particularly concerned about the low number of women who are economically independent and about the dropping of concrete targets in this respect by the Government. The Committee notes with concern the absence of concrete measures given the persistence of horizontal and vertical segregation in the labour market, with women concentrated in the lower-paid service sectors. The Committee is also concerned about the higher unemployment rate for women, especially among women of migrant origin and older women, the insufficient measures taken to address the considerable gender pay gap in both the private (23 per cent) and public sectors (12 per cent) and the continued predominance of women in involuntary temporary and part-time work. In this regard, the Committee expresses concern that the Government of the Netherlands overestimates the degree to which part-time employment is the result of women's choice.

37. The Committee urges the State party to intensify its efforts to ensure equal opportunities for women and men in the labour market, including through the use of temporary special measures, with time-bound targets, in accordance with article 4, paragraph 1, of the Convention and its general recommendation No. 25 and by providing

the labour inspectorate with the necessary human and financial resources to monitor and enforce anti-discrimination legislation in the labour market. The Committee calls upon the Government to implement policies targeted at women with special measures to curb women's unemployment, to create more opportunities for women to extend their working hours, to gain access to full-time employment and to strengthen its measures to promote women's entry into growth sectors of the economy. The Committee also urges the Netherlands to adopt more vigorous measures to accelerate the eradication of pay discrimination against women, including job evaluations, the collection of data, the organization of a nationwide equal pay campaign and the provision of increased assistance to social partners in collective wage bargaining, in particular in determining wage structures in sectors dominated by women. It further recommends that the Netherlands include in its next report information about the results of such measures and data on cases of discrimination against women in the workplace, including wage discrimination, and sexual harassment dealt with by the labour inspectorate and to supply an overview about developments in women's income, whether from gainful employment, social security benefits or pensions.

Convention on the Right of Persons with Disabilities

No concluding observations available yet.

2. Council of Europe

European Social Charter

[*Official website of the European Social Charter, link to conclusions*](#)

Article 1 – Right to work – Conclusions 2012

Paragraph 1 - Policy of full employment

Employment policy

The Government has also deployed a variety of structural measures during the reference period, with a view mainly to increasing labour market participation of older people, women and young people.

The Committee nevertheless notes from another source that an increasing and heterogeneous group of partly disabled, long-term unemployed persons face a growing risk of structural unemployment. The implementation of active labour market policies has apparently not produced positive results. Non-EU nationals are experiencing particular difficulties, thereby amplifying the persistent employment and unemployment gaps. The Committee asks if any measures are envisaged to support these vulnerable groups to reintegrate the labour market.

According to Eurostat, public expenditure on active labour market policies in the Netherlands amounted to 1.18 % of GDP in 2009, which was one of the highest levels among EU-27 countries (where the average public spending on active labour market measures as a% of GDP that year was 0.78%).

The Committee considers that labour market policies implemented in the Netherlands satisfy the obligations under Article 1§1 of the Charter, as shown by the comparatively high level of spending on such policies and the relatively low levels of unemployment in the country.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 1§1 of the Charter.

Paragraph 3 - Free placement services

As regards the number of vacancies registered and filled by the UWV, in 2010 there were 268,000 vacancies notified, and 107,000 filled, which gives a placement rate of 40% (the placement rate for other years of the reference period was very similar, ranging between 36- 38%).

The average time taken to fill vacancies by the UWV fell from 11.5 weeks on average in 2007 to 9.1 weeks in 2010.

Finally, the report indicates that there were 3,280 private employment agencies in 2010. The Committee asks the next report to provide information on how they operate and co-ordinate their work with the public employment services.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 1§3 of the Charter.

Article 3 - Right to safe and healthy working conditions – Conclusions 2013

Paragraph 1 - Safety and health regulations

The Committee notes that there is a national policy to foster and preserve a culture of prevention in the field of health and safety at work. It asks that the next report indicate whether policies, strategies and catalogues are periodically reviewed and, where necessary, adapted in line with changing risks.

The Committee notes that there is a system geared to the improvement of safety and health at work through research, development and training. It asks for information in the next report on how the public authorities ensure that the statutory requirements on occupational health and safety are met and the needed research is commissioned in practice. It also asks for details on how the training of qualified professionals such as prevention officers is carried out in practice.

The Committee confirms that the formulation, implementation and periodic review of policy on health and safety at work draws heavily on an effective social dialogue. It asks for updated information in the next report on the consultation of employers' and workers' organisations in the implementation of occupational health and safety at company level.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Netherlands is in conformity with Article 3§1 of the Charter.

Paragraph 2 - Safety and health regulations

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

Risks covered by the regulations

The Committee previously examined (Conclusions XIV-2) the scope of the risks covered by the occupational safety and health legislation and regulations. It noted the rationale of the Working Conditions Act of 18 March 1999 (Arbowet) as revised on 1st January 2007, whereby the state provides a legal framework and sets targets, and the social partners determine for each sector of the economy how these targets are to be met. It asked that the next report update all relevant legislation and regulations (Conclusions 2009).

The report indicates that there were no new developments besides the right of workers to be informed about their employer's risk assessment. According to another source, Directive 2006/25/EC of the European Parliament and of the Council of 5 April 2006 on the minimum health and safety requirements regarding the exposure of workers to risks arising from physical agents (artificial optical radiation) was transposed by Order of 1 February 2010, which entered into force on 27 April 2010. Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure limit values was transposed by Regulation of 18 December 2011.

The Committee takes note of this information. It considers that the occupational safety and health legislation and regulations comply with the general obligation in Article 3§2 of the Charter to provide specific coverage of the great majority of the risks enumerated in the general introduction to Conclusions XIV-2 (pp. 37-38). It reiterates its request that the next report update all relevant legislation and regulations.

Levels of prevention and protection

The Committee examines the levels of prevention and protection offered by legislation and regulations in relation to certain risks.

Establishment, alteration and upkeep of workplaces

The report provides no information on the levels of prevention and protection offered for the establishment, alteration and upkeep of workplaces.

According to another source, employers shall adapt the design of workplaces to individual needs under the provisions of Articles 3§1 and 4§1 of the Arbowet, whereas employees must use personal protective equipment and preserve protective devices under the provisions of Article 11 of the mentioned Act. According to a further source,⁵ no measures have been taken yet to transpose Directive 2009/104/EC of the Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work, which was adopted during the reference period.

The Committee takes note of this information. It asks for information in the next report on measures taken at the national level or agreed by the social partners for the establishment, alteration and upkeep of workplaces. It also asks for indication of the international or European standards which the legislation and regulations issued or amended during the reference period are designed to incorporate.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Netherlands is in conformity with Article 3§2 of the Charter.

Paragraph 3 - Enforcement of safety and health regulations

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

Occupational accidents and diseases

The Committee previously concluded (Conclusions XVIII-2 and 2009) that the situation was in conformity with the Charter.

According to EUROSTAT data, the number of occupational accidents (excluding commuting accidents) has been decreasing overall during the reference period (from 109 162 in 2008 to 106 386 in 2010), as has the rate of incidence for these accidents (from 3 306.25 in 2008 to 2 369.36 in 2010). This level, however, is significantly higher than the average rate of incidence in the EU-15 and in the EU-27 (from 2 269.42 in 2008 to 1 582.71 in 2010). After a peak in 2008, the number of fatal accidents has been decreasing too (from 76 in 2008 to 29 in 2010), as has the rate of incidence for these accidents (from 2.84 in 2008 to 0.49 in 2010). This level is now significantly below the average rates of incidence in the EU-15 and the EU-27 (from 2.36 in 2008 to 1.87 in 2010). The report states that the Labour Inspectorate received significantly more reports of occupational accidents and complaints related to occupational health and safety.

The report provides no update of figures on cases of occupational disease for the reference period. According to another source, reported cases of occupational disease are in sharp and constant increase (from 5 480 in 2006 to 6 952 in 2008).

The Committee takes note of this information. It asks for an explanation in the next report for the peak in occupational accidents in 2008 and for information on steps taken to remedy the high overall level of such accidents. It also asks that the next report provide the incidence rate for cases of occupational disease as well as information on steps taken to remedy the increase in cases of occupational disease.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 4 - Occupational health services

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

The Committee previously requested (Conclusions 2009) information on consequences in case an employer chooses not to have recourse to external occupational health services, and on workers' access to occupational physicians.

The report states that the strategy on occupational health services has not changed during the reference period. However the Government helped establish a support centre on risk identification and develop more user-friendly digital assessment tools. The report does neither follow-up on the strategies to assist small and medium-sized undertakings described in the previous report, nor provide the information requested by the Committee.

According to another source, employers must involve an occupational health service or an occupational physician to assist workers prevented from working by diseases, conduct the mandatory risk assessment, and perform the mandatory preliminary and periodic health examinations. To help small and medium-sized enterprises, sector-specific solutions approved by the Labour Inspectorate are available in catalogues. According to a further source, based on the labour force data published by ILOSTAT (2010), there are about 2 100 occupational physicians in the Netherlands, i.e. 0.249 physician per 1 000 workers. Occupational physicians must undergo four years of postgraduate training and constantly update their knowledge and practice. They work in-house, as part of private occupational health services, or as self-employed physicians. According to the same source, the priority given in practice to the management of absenteeism diverts efforts from prevention, and impedes the occupational physician's independence.

The Committee takes note of this information. It recalls that, when accepting Article 3§4 of the Charter, states undertook to give all workers in all branches of the economy and every undertaking access to occupational health services. These services may be run jointly by several undertakings. If occupational health services are not established by every undertaking the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose.

The Committee, given the lack of reply to its requests for information, is not in a position to conclude that there is such a strategy in the Netherlands. It renews its request on the consequences for employers who choose not to have recourse to external health services, and on workers' access to occupational physicians. It also requests information on the legislation applicable to occupational health services, any sectors excluded from the scope of such legislation, and on current strategies to ensure that all workers, especially temporary and agency workers, self-employed workers and domestic or home workers have access to occupational health services. The Committee further requests data on the rate of undertakings which, either in-house or through external suppliers, provide access to occupational health services in practice. It asks to be informed on the follow-up on the strategies to assist small and medium-sized undertakings in providing access to occupational health services. It asks for information on means of control that the legal requirements are met in practice.

Conclusion

The Committee concludes that the situation in Netherlands is not in conformity with Article 3§4 of the Charter on the ground that it has not been established that there is a strategy to progressively institute access to occupational health services for all workers in all sectors of the economy.

Article 3 – Right to safe and healthy working conditions

Paragraph 4 - Occupational health services – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by the Netherlands in response to the conclusion that it had not been established that there was a strategy to progressively institute access to occupational health services for all workers in all sectors of the economy (Conclusions 2013, the Netherlands).

The Committee recalls that under Article 3§4 States must promote, in consultation with employers' and workers' organisations, the progressive development of occupational health services for all workers with essentially preventive and advisory functions. These services may be run jointly by several companies. The services must be efficient and should be able to identify, measure and prevent work-related stress, aggression and violence (see Statement of interpretation on Article 3§4, Conclusions 2013; also Conclusions 2003, Bulgaria). It further recalls that if occupational health services are not established for all enterprises, the authorities must develop a strategy, in consultation with employers' and employees' organisations, for that purpose. Thus, States "must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources" (Conclusions 2003, Bulgaria, Conclusions 2009, Albania).

In its report, the Government maintains that there is indeed a strategy concerning occupational health services, which consists of a legal framework providing for the availability of expert occupational health services as well as sustaining facilities and supervision.

The Working Conditions Act (WCA) provides the legal basis for occupational safety and health services in the Netherlands and it applies to all economic sectors. The act stipulates that employers and employees must cooperate and have consultations about occupational health services (Section 12 WCA) and provides rules on the support of expert occupational health services (Section 13 WCA). Expert occupational services can be organised within the company in which case the employer is supported by a specific employee whose task is occupational health prevention and by an occupational health physician or an internal occupational health service (Section 14 WCA). If and when an employer chooses not to organize services internally, he is obliged to enter into a contract with an external expert occupational health service (Section 14a). An expert occupational service is a certified, private and independent service organisation. In order to operate legally, it needs to acquire a certificate that is formally granted by the Minister of Social Affairs and Employment but with the application for the certificate to be submitted to an independent certifying institute which checks the expertise, organisational set-up and quality of the service. Every such service organisation must have at least one occupational physician, one occupational hygiene expert, one occupational safety expert and one occupational psychologist or equivalent. The service organisation may also have other staff such as nurses, social workers, ergonomists, etc.

The report emphasises that there is a nationwide network of services. In some cases the services are set up at branch level by the social partners, usually on the basis of collective agreement arrangements, whereas in other branches use is made of an external occupational service organisation.

The Committee notes that it is part of the Dutch strategy to take measures to help companies, especially small and medium-sized enterprises, to improve their occupational health services. This takes place, for example, by making available digital tools to enable companies to make risk assessment and to deal with any risks (see www.rie.nl). There is also a website which provides

relevant information to employers, employees and prevention-workers on occupational health services and relevant links (www.arboportaal.nl).

Finally, the Government states that there is on-going supervision of occupational health services. An occupational health service organisation may lose its certificate when it does not live up to its tasks. Moreover, the organisation of occupational health service support within the company must be endorsed by the Works Council. It is always an option that the 'Inspectorate-SZW' (the former labour inspectorate) puts forward a demand to the employer to comply with the applicable legislation, when the expert support is not functioning well in the company.

The Committee asks whether there are cases of certificates for occupational health service organisations being withdrawn and it also wishes to know whether any violations of the applicable legislation have been determined by the 'Inspectorate-SZW'. Nevertheless, in view of the elements provided in the report the Committee considers that the situation is in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Netherlands is in conformity with Article 3§4 of the Charter as regards the strategy to progressively institute access to occupational health services for all workers in all sectors of the economy.

Article 4 - Right to a fair remuneration – Conclusions 2014

Paragraph 1 - Decent remuneration

The Committee notes the statutory minimum wage's reduced rates applied to young workers in 2012:

- 85.00% for 22 year-olds (which is €1 237.77 gross and €1 063.36 net per month);
- 72.50% for 21 year-olds (which is €1 055.75 gross and €919.59 net per month);
- 61.50% for 20 year-olds (which is €895.56 gross and €793.23 net per month);
- 52.50% for 19 year-olds (which is €764.51 gross and €690.68 net per month);
- 45.50% for 18 year-olds (which is €662.57 gross and €611.32 net per month).

The report reiterates that these reduced rates purport to foster young persons' choice to qualify further; to keep youth unemployment low; and to reflect young workers' reduced productivity and increased need for supervision. The representative of the Government informed the Governmental Committee (Report concerning Conclusions 2010, §§108-112) that only 8% of young workers were paid at reduced rates, whereas 70% of them earned at least 120% of the statutory minimum wage, and that social assistance was available to those who fell below the poverty threshold.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) considered (Convention No. 131 on Minimum Wage Fixing (1970): Observation, adopted in 2012, published at the 102nd ILC session (2013)) that in light of the principle of equal remuneration for work of equal value, remuneration levels should be determined on the basis of objective factors such as the quantity and quality of work performed, and not stereotypical assumptions linking low productivity with young age. It accordingly requested the Government to consider the possibility of engaging consultations regarding the advisability of maintaining differentiated minimum wage rates, especially for young adult workers below 23 years of age, in the light of the overriding principle of equal remuneration for work of equal value.

The Committee notes from EUROSTAT (Monthly minimum wages, country-specific information) that the Government may decrease the statutory minimum wage in certain enterprises or sectors

in case of severe economic adversity. It requests that the next report provide information on this point.

Conclusion

The Committee concludes that the situation in the Netherlands is not in conformity with Article 4§1 of the Charter on the grounds that:

- It has not been established that the statutory minimum wage ensures a decent standard of living;
- The reduced rates of the statutory minimum wages applicable to young workers are manifestly unfair.

Article 8 - Right of employed women to protection of maternity – Conclusions 2015

Paragraph 1 - Maternity leave

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

Right to maternity leave

The Committee previously noted that the Work and Care Act (Wet Arbeid en Zorg) provides for sixteen weeks maternity leave, that is six weeks before the expected date of birth and ten weeks afterwards. The Working Time Act (Arbeidstijdenwet) prohibits employees from working during the four weeks before childbirth and six weeks after childbirth. In reply to the Committee's question, the report confirms that the same rules apply to women employed in the public sector.

Right to maternity benefits

The Work and Care Act provides that, in order to be entitled to maternity benefits, female employees or persons equated with employees must apply through their employer to the Employee Insurance Agency (Uitvoeringsinstituut Werknemersverzekeringen UWV) at least two weeks before the date on which the benefits should start. The same applies to women employed in the public sector. The benefits correspond to 100% of the daily wage, up to a ceiling of €197 per day, and cover the entire period of maternity leave (16 weeks).

The Committee refers to its Statement of Interpretation on Article 8§1 (Conclusions 2015) and asks whether the minimum rate of maternity benefits corresponds at least to the poverty threshold, defined as 50% of the median equivalised income, calculated on the basis of the Eurostat at-risk-of-poverty threshold value.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 8§1 of the Charter.

Article 11 Right to protection of health – Conclusions 2013

Paragraph 1 - Removal of the causes of ill-health

Right of access to health care

In its previous conclusion, the Committee noted the reforms which had taken place during the reference period, namely the introduction of a single statutory insurance system intended to cover a larger section of the population, by replacing certain voluntary private insurance schemes and offering a higher standard of healthcare (Conclusions 2009).

In the previous examination, the Committee adopted a general question addressed to all States on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. As the report does not reply to this question, the Committee asks that this information be included in the next report.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 11§1 of the Charter.

Paragraph 2 - Advisory and educational facilities

Counselling and screening

In respect of counselling and screening for the population at large, according to the report the screening programmes made available by the public authorities (e.g. breast cancer, cervical cancer, neonatal screening) are very successful, and new technologies offer opportunities for further improvements. In 2011 the Minister of Health announced the introduction of a screening programme for colorectal cancer.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 11§2 of the Charter.

Paragraph 3 - Prevention of diseases and accidents

As regards tobacco, statistics show a continuing downward trend in the number of smokers, among both adults and juveniles. In 1958, 60% of the Dutch population smoked occasionally, the figure reaching as high as 90% among Dutch men. By 2011, 25% of Dutch people aged 15 and over smoked occasionally, 27% of men and 23% of women. There is also a downward trend in alcohol consumption among juveniles. In 2003, 84% of juveniles under 16 had drunk alcohol, the rate dropped to 66% in 2009.

However, the Committee notes that the consumption of cannabis among the general population aged 15-64 increased between 2001 and 2009. In 2005, 3.3% (i.e. 363 000 people) were current users, rising to 4.2% in 2009 (466 000). An increasing trend has also been observed with the use of cocaine in the general population, from 0.3% in 2005 (32 000 users) to 0.5% in 2009 (50 000 users). Cocaine use among juveniles and adults in social settings is considerably more prevalent than in the general population. However, cocaine is used not only in social contexts, but often at home, both at the weekend and during the week.

As regards amphetamines, use is relatively low and stable among the general population. In 2009 the percentage of amphetamine users was 0.2% (21 000 persons). Finally, as regards opiates, the most recent estimates showed there were around 18 000 problem opiate users in 2008. The Committee wishes to be kept informed on policies and measures taken to restrict the supply of drugs.

Conclusion

The Committee concludes that the situation in Netherlands is in conformity with Article 11§3 of the Charter

Article 12 Right to social security – Conclusions 2013

Paragraph 1 - Existence of a social security system

The Committee requests that the next report provide updated figures on the personal coverage of each branch of the social security system.

Adequacy of the benefits

The Committee notes from Eurostat that, in 2011, 50% of the median equivalised income stood at €846 per month. In its previous conclusion, the Committee asked for more information regarding the grounds on which a person is considered 'culpably unemployed' and is therefore not granted unemployment benefit. It notes from the report on the European Code of Social Security that the Dutch Ministry of Social Affairs and Employment wrote to the Employee Insurance Agency (UWV) requesting it to apply sanctions only where neglect or recklessness amounted to wilful misconduct, directly causing the unemployment of the person concerned, in line with the obligation under Article 68f of the Code.

Furthermore, the report provides no information in reply to another question of the Committee whether there is a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his/her previous skills without losing his/her unemployment benefits. Therefore, the Committee holds that it has not been established that there is a reasonable initial period during which an unemployed person may refuse unsuitable job offer without losing his/her unemployment benefit.

As regards the adequacy of the old-age benefit, the Committee notes from the report on Article 23 that the full old age pension for a single person (50 years of insurance) was €1 003.26 net per month in 2012 (excluding holiday allowance). State pensions are not means-tested for recipients aged 65 and over. Elderly people who do not receive a full old age pension are entitled to supplementary social assistance benefit under the Work and Social Assistance Act (WWB) if their total income (comprising old age pension, any supplementary pension, other income and assets) is below the guaranteed minimum benefit income. This guarantees an income equal to the old age pension based on 50 years insurance.

The Committee recalls from its conclusion 2006 that contributions are income-related for those who work but the amount of the pension received is not related to the contributions paid but only to the period of insurance and individual circumstances. The Committee further notes from the additional information provided by the Government that the Work and Social Assistance Act (WWB) guarantees that when an old age pension is not sufficient, a supplement will be paid (AIO supplement) to bring the level of pension to the minimum level for elderly persons. The social minimum level of a single elderly person is €964.40 per month. The amount of the additional benefit depends on the amount of (insufficient) old age pension the elderly person in question receives. The Committee notes that this amount is adequate.

As regards unemployment benefit, the Committee further notes from MISSOC that its amount represents 75% of the last daily wage (for which a maximum of €190.32. was set in 2011) during the first two months, 70% thereafter. If unemployment benefits are less than the social minimum, a supplementary – means tested – benefit can be claimed under the Supplementary Benefit Act (Toeslagenwet, TW).

The Committee understands that its minimum level will always attain the guaranteed income level, which in 2011 stood at € 654. The Committee asks whether its understanding is correct. In the affirmative, the Committee wishes to know whether supplements are also paid (see conclusion on Article 13).

The Committee further asks what is the minimum level of sickness benefit and reserves its position as to the adequacy of income-replacement benefits.

Conclusion

The Committee concludes that the situation in the Netherlands is not in conformity with Article 12§1 of the Charter on the ground that it has not been established that there is a reasonable initial period during which an unemployed person may refuse unsuitable job offer without losing his/her unemployment benefit.

Article 12 Right to social security

Paragraph 1 - Existence of a social security system – Conclusions 2015

In application of the reporting system adopted by the Committee of Ministers at the 1196th meeting of the Ministers' Deputies on 2-3 April 2014, States were invited to report by 31 October 2014 on conclusions of non-conformity for repeated lack of information in Conclusions 2013.

The Committee takes note of the information submitted by the Netherlands in response to the conclusion that it had not been established that there was a reasonable initial period during which an unemployed person may refuse unsuitable job offer without losing his/her unemployment benefit (Conclusions 2013, the Netherlands).

The Committee recalls that in order to meet the requirements of Article 12§1 unemployment benefits must not only be of an adequate level and be paid for a reasonable duration, there must also be a reasonable initial period during which an unemployed person may refuse a job or a training offer not matching his previous skills without losing his unemployment benefits (Conclusions XVIII-1 (2006), Germany).

The report states that persons in receipt of unemployment benefits have an obligation to seek and accept suitable employment. Work that is not suitable may be refused. The Unemployment Act (Werkloosheidswet, WW) provides that after one year of unemployment any employment is considered suitable, but may still be refused if justified by physical, mental or social circumstances.

The Directive Suitable Work, 2008, lays down standards concerning the definition of suitable work: during the first six months of unemployment, an unemployed person has the right to search for a job corresponding to the qualifications he or she has acquired through study and/or work experience. After six months of unemployment, an unemployed person is obliged to search for work that is qualified one level lower than the level of the preceding six months. As noted above after 12 months of unemployment, any job is considered suitable and may be refused only in special circumstances. The Committee asks that the next report explain the qualification levels referred to in the definition of suitable work.

In view of the elements outlined above, the Committee holds that the situation is in conformity with the Charter.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Netherlands is in conformity with Article 12§1 of the Charter as regards a reasonable initial period during which an unemployed person may refuse unsuitable job offer without losing his/her unemployment benefit.

Paragraph 2 - Maintenance of a social security system at a satisfactory level at least equal to that necessary for the ratification of the European Code of Social Security

The Committee notes from Resolution CM/ResCSS(2012)11 on the application of the European Code of Social Security and its Protocol by the Netherlands (period from 1 July 2010 to 30 June 2011) that the Committee of Ministers considers the law and practice in the Netherlands to

continue to give full effect to Parts II, III, IV, V, VII, VIII and X of the Code and the Protocol, albeit subject to the receipt of additional information on the application of several parts of the Code (concerning medical care, maternity benefit, invalidity benefit and the calculation of periodical payments), but not to be in conformity with Part IX of the Protocol (invalidity benefit).

The Committee points out that, to comply with Article 12§2 of the Charter, the social security system of states party must cover at least six parts (with medical care counting as two and old age benefit as three parts) (see Conclusions 2006, Italy). The Netherlands gave full effect to ten parts of the Code and the Protocol despite the fact that, during the reference period, the law and practice were not in conformity with Part IX of the Protocol (invalidity benefit).

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 12§2 of the Charter.

Paragraph 3 - Development of the social security system

In reply to the Committee's question concerning the rising number of beneficiaries of the incapacity benefit for young disabled persons, the report states that the amended Work and Employment Support Act came into force in January 2010 replacing the Invalidity Insurance (Young Disabled Persons) Act. The new Act takes a different approach by focusing on what young people can do as opposed to what they are unable to do. The new Act is designed to improve young disabled people's chances of finding paid employment to enable them to play an active part in society. Employment support is provided to these people through an individually tailored 'participation plan' and they continue to be provided an income safety net.

The Committee considers that the shifting of the focus from passive (granting of benefits) to active employment policy measures in case of invalidity does not necessarily represent a restrictive evolution in the social security system. However, such modifications should not undermine the effective protection against social risks and should ensure that the basic compulsory social security system is maintained and is sufficiently extensive. The Committee asks what is the minimum level of income safety net which is provided to young disabled persons while they undergo employment support measures.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Netherlands is in conformity with Article 12§3 of the Charter.

Article 13 - Right to social and medical assistance – Conclusions 2013

Paragraph 1 - Adequate assistance for every person in need

Level of benefits

To assess the situation during the reference period, the Committee takes account of the following information:

- Basic benefit: according to the report a single person without resources received €656.93 net per month as of 1 January 2011 (50% of the statutory minimum wage), including holiday allowance (8% of this amount). Single parents received €919.70 net, while married/cohabiting couples received €1313.85 net per month.
- Additional benefits: single persons and single parents are also eligible for a maximum allowance of €262.77 net per month (20% of the net minimum wage) if they cannot share their living costs

with anyone else. The Committee notes from the MISSOC that in certain cases a person may be eligible for rent allowance, depending, inter alia, on his/her income, rent, assets and age.

- Medical assistance: the Committee noted in its previous conclusion (Conclusions 2009) that a person without resources is also entitled to healthcare benefit to help cover the health insurance premium. The Committee asks the next report to indicate the amount of the average healthcare benefit.
- Poverty threshold (defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value): it was estimated at €846 per month in 2011. In the light of the above information, the Committee considers that the level of social assistance is adequate.

Personal scope

The Committee notes from the MISSOC that all residents and non-residents liable to Dutch wages and salaries tax in connection with employment in the Netherlands have access to health care and all persons legally residing in the Netherlands with inadequate financial resources to meet their essential living cost have access to social assistance. The Committee notes from the additional information provided by the Government that, as the granting or renewal of residence permits is subject to a condition of resources (during the first two years for EU/EEA and Swiss nationals, five years for other nationals) if temporarily resident foreigners request access to social assistance, this can influence negatively the renewal of their residence permit or the granting of a permanent residence status. However, if a EU/EEA or Swiss citizen has been working in the Netherlands and has involuntarily lost his/her employment, that person remains entitled to social assistance for one year (if the employment lasted less than one year) or for an indefinite period (if the employment lasted one year or more), without any impact on the person's residence status. The Committee notes that the question of whether adequate shelters are available to people without resources is being examined in the framework of a pending collective complaint (FEANTSA v. The Netherlands, Complaint No. 86/2012). It accordingly reserves its position on this issue.

Conclusion

Pending receipt of the information requested, the Committee defers its conclusion.

Paragraph 2 - Non-discrimination in the exercise of social and political rights

The Committee notes that there have been no changes in the situation that it has previously considered to be in conformity with the Charter.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 13§2 of the Charter.

Paragraph 3 - Prevention, abolition or alleviation of need

The report refers to its previous conclusion (Conclusions XVIII-1 and 2009) and notes that there have been no changes in the situation that it has previously considered to be in conformity with the Charter.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 13§3 of the Charter.

Article 14 - Right to benefit from social services – Conclusions 2013

Paragraph 1 - Promotion or provision of social services

Organisation of the social services

According to the report, there were no new developments in the legislation on social welfare services during the reference period. It is pointed out that the Ministry of Health, Welfare and Sport defines the framework within which local authorities can decide on their own policy, based on the composition and demands of their residents. A model is used to provide tailored support based on individual needs. This requires a new mind-set, as local authorities have to work closely with clients and their representatives.

Effective and equal access

The Committee reiterates that the provision of social welfare services should concern all those in need, in particular the vulnerable groups and individuals who have a social problem. As indicated above, it requests an up-to-date description of the situation with regard to effective and equal access to social welfare services.

Quality of services

In reply to the Committee, the report explains that annual expenditure on social welfare services covered both the Social Support Act (WMO), in the amount of €5 billion, and the Exceptional Medical Expenses Act (AWBZ), in the amount of €24.6 billion in 2011. Service providers must obtain accreditation from the Minister of Health, in accordance with the Healthcare Institutions (Accreditation) Act, to be able to offer services insured through the Exceptional Medical Expenses Act and the Healthcare Insurance Act. They must also meet standards set by the Care Institutions (Quality) Act. All service providers offering services financed under the Social Support Act are further required to meet standards set by local authorities. The Committee asks what kind of standards have been set up by the Care Institutions (Quality) Act and by local authorities.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation in the Netherlands is in conformity with Article 14§1 of the Charter.

Paragraph 2 - Public participation in the establishment and maintenance of social services

The Committee notes that there have been no changes to the situation which it has previously found to be in conformity with the Charter. The Committee asks for the next report to confirm that the conditions of service of private service providers and the arrangements for supervision of their activities are identical to those of public providers. It also asks for these conditions of service and arrangements to be described in the next report.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 14§2 of the Charter.

Article 15 - Right of persons with disabilities to independence, social integration and participation in the life of the community – Conclusions 2012

Paragraph 1 - Education and training for persons with disabilities

The Committee recalls the importance of integrating persons with disabilities into ordinary institutions (Statement of Interpretation, Conclusions XIV-2, Volume I) and considers that the educational system in the Netherlands remains insufficiently inclusive for children with disabilities. It asks accordingly what measures have been taken to remedy the situation.

The Committee furthermore asks the next report to indicate the number of persons with disabilities in vocational training, including higher education, the number of integrated classes and special education institutions, basic and in-service training for teachers.

Conclusion

Pending receipt of the information requested, the Committee concludes that the situation of the Netherlands is in conformity with Article 15§1 of the Charter.

Paragraph 2 - Employment of persons with disabilities

Employment of persons with disabilities

The report does not indicate neither the number nor the percentage of persons with disabilities employed in the open labour market. Thus, the Committee does not consider that an effective equal access to employment is guaranteed.

According to the report, in 2010 there were approximately 100,000 people working in sheltered employment and the number of those moving on to a regular job was negligible.

Conclusion

The Committee concludes that the situation in the Netherlands is not in conformity with Article 15§2 of the Charter on the ground that it has not been established that persons with disabilities are guaranteed an effective equal access to employment.

Paragraph 3 - Integration and participation of persons with disabilities in the life of the community

The Committee notes that the 2003 Equal Treatment (Disabled and Chronically Ill People) Act and the 2003 Disability Act prohibit discrimination on the ground of disability. It notes from another source¹ that the Equal Treatment Act covers access to the buildings and infrastructure associated with the public transport. Issues such as material facilities and other structural or home accessibility modifications are also covered by the Social Support Act (Wmo). In reply to the request (see Conclusions 2008) for more details on the relevant legislation and case-law concerning the fields covered by Article 15§3, the report indicates that, as from March 2009, the Equal Treatment Act covers also housing: no one may be refused accommodation on the grounds of disability or chronic illness and immaterial concessions can be granted, such as the permission to park a mobility scooter in the hall of a building – two examples of case-law on this issue, dating from 2010 and 2011, are mentioned in the report. A further extension of the scope of the law to include public transport, planned for end 2011, would allow victims of discrimination to seize a court or the Equal Treatment Commission. The Committee welcomes this extension and wishes to be informed in the next report of its outcome. As the Committee notes that the Equal Treatment Act does not cover telecommunications nor cultural and recreational activities, it also asks the next report how these fields are protected.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 15§3 of the Charter.

Article 16 - Right of the family to social, legal and economic protection – Conclusions 2015

Family benefits

According to Eurostat data, the monthly median equivalised income in 2013 was €1,736. According to MISSOC, in 2014, the monthly amounts of universal child benefit was €63.88 (up to 5 years), €77.57 (6 to 11 years), and €91.26 (12 to 17 years). The Committee notes that these amounts per month correspond to 3.6%, 4.46% and 5.2% of monthly median equivalised income. It also notes that child benefit for families with children up to 5 and children aged 6-11 is low (3.6% and 4.46%).

While noting that the above-mentioned benefit rates are low, the Committee also takes into account the child-related allowance (Wet op het kindgebonden budget, WKB), the amount of which depends on the income of the parent(s), the number of children and the age of the children. The maximum amount of this allowance is granted to parents, whose household income does not exceed €26,147. For children between 12 and 18 there is an extra allowance. The combination of the universal child benefit and the child-related allowance brings the percentage vis-à-vis the monthly median equivalised income to a higher level. For instance, a child up to 5 whose parents' income does not exceed €26,147 will receive €63.88 + €84.75 = €148.63 per month which corresponds to 8.5% of monthly median equivalised income. In view of the foregoing and in order to assess the adequacy of child benefit the Committee asks the next report to indicate the number of families receiving the combination of the universal child benefit and the child-related allowance. Meanwhile, it reserves its position on this point.

The Committee takes also note of various specific benefits such as the one for children with disabilities living at home, childcare benefit for children cared for outside the home and several tax measures.

In respect of the special Caribbean municipalities (Bonaire, St Eustatius and Saba), the report indicates that there is no child benefit scheme. The Committee considers that the situation is not in conformity with the 1961 Charter on the ground that there is no child benefit scheme.

Conclusion

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

- in respect of the special Caribbean municipalities, the protection against domestic violence against women is not adequate;
- in respect of the special Caribbean municipalities, there is no child benefit scheme.

Article 23 - Right of the elderly to social protection – Conclusions 2013

Legislative framework

The report provides that equal treatment of all people residing in the Netherlands is guaranteed under article 1 of the Dutch Constitution. The "Equal Treatment in Employment, in force as of 1 May of 2004, prohibits direct and indirect distinction in employment relations on the basis of age. However, there is no specific legislation addressing discrimination against elderly people in other areas. The Committee recalls that the prohibition of discrimination based on age should be progressively expanded to also include the areas of social security, health care, and provision of goods and services and that an adequate legal framework is a fundamental measure to combat age discrimination in these areas. Consequently, it considers that the existing legislation is insufficient to meet the requirements of the Charter in this respect.

The Committee asks for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons. In this respect, the Committee refers to its statement of interpretation in the General Introduction.

Adequate resources

People living or working in the Netherlands are insured under the General Old-Age Pensions Act (Algemene Ouderdomswet, AOW). As a rule, all men and women are entitled to an old-age pension when they reach the age of 65.

In reply to the Committee's question, the report explains that the full old age pension for a single person amounted to €1 003.26 net per month in 2012 (excluding holiday allowance). Full pension is paid to persons continuously insured between 15th and 65th birthday. A 2% reduction applies for every year without insurance.

State pensions are not means-tested for recipients aged 65 and over. Elderly people who do not receive a full old age pension are entitled to supplementary social assistance benefit under the Work and Social Assistance Act (WWB) if their total income (comprising old age pension, any supplementary pension, other income and assets) is below the guaranteed minimum benefit income. According to additional information submitted by the Government, the minimum level for a single elderly person is €964.40 per month. The amount of the additional benefit depends on the amount of old age pension the elderly person in question receives.

The report further states that under the Work and Social Assistance Act, 'special assistance' for necessary costs of living can be provided on an individual basis, as well as special assistance for the costs of an additional collective health insurance.

The poverty threshold, defined as 50% of median equivalised income and as calculated on the basis of the Eurostat at-risk-of-poverty threshold value, was estimated at €846 in 2011. The Committee notes that the guaranteed old-age benefit is above the poverty line.

The Committee further notes from Eurostat that in 2011, 1.8% of persons aged 65 and over received income falling below 40% of median equivalised income (compared to 1.5% in 2010 and 1.3% in 2007). The Committee requests information on what specific measures are taken to address their situation.

Healthcare

The Committee recalls the importance of establishing health care programmes and services (in particular primary health care services) specifically aimed at the elderly, as well as guidelines on health care for elderly persons. In particular, there should be mental health programmes for any psychological problems in respect of the elderly, adequate palliative care services and special training for individuals caring for elderly persons. . The Committee therefore asks for more information on these matters in the next report. Information should also be provided on any measures taken on improving accessibility and quality of geriatric and long-term care, or on the coordination of social and healthcare services in respect of the elderly.

Conclusion

The Committee concludes that the situation in the Netherlands is not in conformity with Article 23 of the Charter on the grounds that there is no adequate legal framework to combat age discrimination outside employment.

Article 27 - Right of workers with family responsibilities to equal opportunity and treatment– Conclusions 2015

Paragraph 1 - Participation in working life

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

Conditions of employment, social security

In its previous conclusion (Conclusions 2011) the Committee wished to know to what extent periods of leave due to family responsibilities were taken into account for determining the right to pension and for calculating the amount of pension.

According to the report, leave due to family responsibilities does not affect an individual's entitlement to general old age pension. In the case of workplace (supplementary) pensions, it depends on the scheme in question whether or not an individual's entitlement continues to accumulate during periods of parental leave.

Child day care services and other childcare arrangements

The Committee takes note of childcare policy changes in the period of 2010 - 2013.

According to the report, from 2010 compulsory registration in the National Childcare and Playgroups Register (LRKP) applies to all childcare providers, including childminders, for all the locations where care is provided. In order to be registered in the LRKP, childcare facilities must meet statutory quality standards. This is checked every year by the Municipal Health Services (GGD).

During their inspections, the GGD also checks the professional qualifications of childcare workers. According to the 2013 Act amending the Childcare Act, a number of requirements have been introduced, such as, among others:

- childcare workers are subject to continuous screening since 1 March 2013.
- work placement trainees, temporary agency workers and volunteers must present a new certificate of conduct every two years, as they do not fall under the continuous screening scheme.
- childcare employers must contact a confidential inspector at the Education Inspectorate if they have any indication that an employee may be abusing a child, sexually or otherwise.

Conclusion

The Committee concludes that the situation in the Netherlands is in conformity with Article 27§1 of the Charter.

Article 30 – Right to be protected against poverty and social exclusion – Conclusions 2013

Measuring poverty and social exclusion

The Committee takes note of the figures provided in the report as to percentage of population at risk of poverty in 2010 (mentions some examples). It also notes from Eurostat that in 2011, 14.8% of population was at risk of poverty and social exclusion, which rate stands below the average indicator of the EU countries (23.4%).

Approach to combating poverty and social exclusion

2010 was the European Year for Combating Poverty and Social Exclusion. According to the report, in the Netherlands, a special effort was made to encourage close cooperation between

municipalities and civil society organisations. This led to various activities as an extension of the Dutch anti-poverty policy. The Ministry of Social Affairs and Employment's annual report for 2010 and the National Programme for the European Year provided an overview of events, campaigns and products. Also, in 2010, as part of the Europe 2020 strategy, a new objective was adopted which aims at the reduction of the number of households with a low work intensity by 100 000. The Committee asks what specific measures are taken to combat poverty and social exclusion of migrants and other vulnerable groups.

Monitoring and assessment

In its previous conclusion, the Committee asked for information, backed up by practical examples, on how individuals and voluntary associations take part in assessing measures to combat poverty. In reply, the report states that the government-wide policy on reducing poverty and promoting participation calls for the support and efforts of many actors. Within the context of the National Action Plan Poverty Eradication and Promoting Participation extensive consultations had been held with various civil society organisations, research and advisory institutions and professional organisations as well as with municipalities and the social partners. Organisations involved in government policy on poverty reduction and social inclusion include, among others: Stimulansz, Humanitas, DIVOSA, NIBUD, European Anti Poverty Network Nederland, the Dutch Centre for Social Development Movisie, the Council for Work and Income, Sociale Alliantie, and the Labour Foundation. The Committee takes note of the example of the report by SGBO Benchmarking on municipal poverty reduction policy.

Conclusion

The Committee concludes that the situation in Netherlands is in conformity with Article 30 of the Charter.

European Code of Social Security

Resolution CM/ResCSS(2015)12 on the application of the European Code of Social Security and its Protocol by the Netherlands

(Period from 1 July 2013 to 30 June 2014)

(Adopted by the Committee of Ministers on 10 September 2015 at the 1234th meeting of the Ministers' Deputies)

[Link to adopted by the Committee of Ministers resolutions](#)

The Committee of Ministers notes:

I. concerning Part II (Medical care) of the Code, Domiciliary visiting, with respect to the domiciliary visiting by the general practitioners required by Article 10(1)(a)(i) of the Code, the report indicates that the entitlement to health care provided by the general practitioner is laid down in article 2.4 of the Royal Decree on health insurance. Domiciliary visits are included as part of the entitlement to receive health care by a general practitioner, but are not explicitly mentioned in national legislation. To prevent unnecessary strain on general practitioners at the cost of the available time and quality of health care, they are not obligated to provide domiciliary visits at any request of patients. However, if the severity of the condition and the medical history of the patients so requires, domiciliary visits are a necessity and can be provided by general practitioners. The Committee of Ministers notes that the Netherlands is of the opinion that the legislation establishing the entitlement to health care provided by general practitioners is in conformity with Article 10(1)(a)(i) of the Code;

II. concerning promotion of the general health services, with regard to Articles 10(4) and 49(4) of the Code, which establish the principle of collaboration between medical care services and general preventive health services forming part of the social security system, the government was asked to explain how the development of such general health services is promoted in the context of the fully privatised health insurance system. In reply, the report indicates that private health insurers are responsible for executing the Health Insurance Act and are obligated to give effect to their duty of care in such a way that their insured members have access to the benefits they are entitled to in-kind or through reimbursement, which include medical care services mentioned in Articles 10(1) and 49(1)(2) of the Code. The Committee of Ministers points out that medical care services mentioned in these articles of the Code are normally limited to contingencies involving need for medical care in case of a morbid condition and do not include the general health services which are aimed more at the prevention of the need for such care by all appropriate means;

III. concerning the effectiveness of medical care, that in its Resolution CM/ResCSS(2014)12, the Committee of Ministers noted that the Dutch Government limited its role in overseeing the health insurance to ascertaining whether the private insurer is fulfilling its obligation to provide insured persons with the services they are entitled to under the Health Insurance Act, and pointed out that such limited supervision of the quality and effectiveness of the medical care provided by private insurers seeking to make a profit, may pose a threat to fulfilling the obligation imposed on the government by Article 10(3) of the Code to ensure that the medical care conforms to the highest practicable standard necessary for maintaining, restoring or improving the health of the person protected. The Committee of Ministers therefore asked the government to explain whether the Health Care Inspectorate (IGZ), which is entrusted with overseeing the quality of public health, or the Dutch Quality Institute have established a system of indicators monitoring the effectiveness of medical care and the health status of the population. In reply, the government indicates that the IGZ supervises the quality of health-care providers

on the basis of independent judgement in the interest of the civilians. For its part, the Dutch Quality Institute considers that patients, health-care providers and insurers know best what qualitatively good health care is and, therefore, make agreements in the form of quality standards. The Dutch Quality Institute encourages the parties to monitor the quality standards themselves and promotes the visibility of the quality of health care for patients. The Committee of Ministers understands from these explanations that neither the IGZ nor the Dutch Quality Institute have established a statutory system of indicators. The Committee of Ministers observes that the statistical information on the life expectancy and ischemic disease among the Dutch population supplied in the report is insufficient to be able to demonstrate the effectiveness of the medical care services guaranteed by Part II of the Code and the improvement of the health of the population;

IV. concerning participative management of the health insurance scheme, in its Resolution CM/ResCSS(2014)12, the Committee of Ministers asked the government to explain how the Dutch health insurance scheme gives effect to Article 71 of the Code, which requires the government to accept general responsibility for the proper administration of the health insurance institutions and providers of medical services, ensuring that they are managed in a democratic and transparent manner, with the proper participation of the organisations representing the persons protected together with the professional associations of health-care providers and medical staff. In reply, the government states that, according to Article 28 of the Health Insurance Act, the statutes of the health-care insurer have to include provisions for monitoring the policy of the Board and the general course of affairs of the company and for guaranteeing a fair degree of influence of the insured on their policy. Regarding the latter, health insurers must create possibilities for their insured to provide input in how the insurance business should be run. Under the Act on Market Regulation of Health Care, the Dutch Health Care Authority (Nederlandse Zorgautoriteit (NZa)) supervises the rightful application of these obligations and may impose sanctions in case legal obligations of health-care insurers are not fulfilled. The government states, however, that there are no legal obligations for participation of representative organisations of employers and employees (trade unions), or public authorities in the managing board of health insurance companies, or in other governing bodies of the health insurance system. Health insurance companies insure all citizens, regardless of the fact whether they belong to the workforce or not, and of their socio-economic or professional status/background. Therefore, the representation of the social partners in the governing bodies is not a logical feature of the Dutch health insurance system. The Committee of Ministers concludes from these explanations that the Dutch legislation does not provide for the participation either of the representatives of the social partners or of the representatives of other persons protected, or of the representatives of the public authorities in the management of the health insurance scheme;

V. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66 of the Code, Determination of the reference wage, that according to the previous reports of the government, the reference wage of the standard beneficiary used to calculate the replacement level of benefits for Parts III, IV, and VIII of the Code is determined under Article 65 for the skilled manual male employee as the so-called “modal income” (modaal inkomen) in the Netherlands calculated by the Central Planning Bureau and for Parts V, VII, IX and X under Article 66 for the ordinary manual male labourer as the Legal Minimum Wage established by the Ministry of Social Affairs and Employment. The Committee of Ministers points out that both methods used for determining the reference wage of the skilled employee and ordinary labourer do not correspond to any of the options allowed by Articles 65 and 66 of the Code and result in the case of Article 66 in establishing the reference wage manifestly below the wage of an

ordinary adult male labourer calculated on the basis of Eurostat data by applying the option admitted in Article 66(4)(b);

VI. concerning social security and the reduction of poverty, in view of the fact that prevention and reduction of poverty is one of the main objectives of the Code, that further statistics are required on the structure and dynamics of poverty in the country;

Finds that the law and practice in the Netherlands give effect to Parts III, IV and VIII of the Code and the Protocol and that they also ensure the application of Parts V, VII, IX and X, subject to recalculating the replacement level of benefits on the basis of the revised reference wage. With respect to Part II, the Committee of Ministers reserves its findings subject to receiving information showing that the fully privatised health insurance system in the Netherlands ensures the standards of health protection guaranteed by the Code;

Decides to invite the Government of the Netherlands:

I. concerning Part II (Medical care) of the Code, Domiciliary visiting, to substantiate the above-mentioned statement and to provide proof, in its next report, that domiciliary visits are carried out in practice by supplying statistics on the number of such visits paid for, or reimbursed by, the private health insurers;

II. concerning promotion of the general health services, with regard to Articles 10(4) and 49(4) of the Code, to indicate in its next report whether such general health services are placed at the disposal of the insured persons by the public authorities or by the recognised private health insurers. The government is also asked to indicate whether the duty of care of the private insurers includes preventive care aimed at the maintenance and improvement of the health of the persons protected who are not suffering from the morbid condition;

III. concerning the effectiveness of medical care, taking due note of the government's statement that the experience of the Dutch population of having very good health between 2010 and 2012 is at a stable 80 per cent, to substantiate this statement, in its next report, by reference to corresponding studies or sociological enquiries, if indeed no consistent statistical data on the health of the population is compiled by the Ministry of Health, Welfare and Sports;

IV. concerning participative management of the health insurance scheme to confirm, in its next report, that the above description is indeed its vision of how the national health insurance scheme should be organised and managed. The government is asked to specify the provisions in the statutes of the private health insurance companies which ensure that the policy of the Board and the general course of the company are properly monitored, and the insured persons are given the possibility to exert a fair degree of influence in this respect. It is also requested to indicate whether the Dutch Health Care Authority has given any recommendations to that end, or has imposed sanctions on health insurers for failing to include such provisions in their statutes or to apply them in practice;

V. concerning Part XI (Standards to be complied with by periodical payments), Articles 65 and 66 of the Code, Determination of the reference wage, to review the methods it is using for determining the reference wage of the standard beneficiary under Articles 65 and 66 of the Code and to recalculate, in its next detailed report, the replacement level of benefits provided under Parts V, VII, IX and X of the Code. In doing so, the government may wish to refer to the above-mentioned "Technical note", transmitted to the government, which calculates for the Netherlands all the options allowed by the Code for the same time period (2010) for which complete and relevant Eurostat data are available. The government is asked to update the

statistical information used in the above-mentioned “Technical note”, indicating the precise source of data for future reference;

VI. concerning social security and the reduction of poverty, to send in its next report the most recent and comprehensive statistics on the structure and dynamics of poverty in the country, including among the active population, pensioners and children, and on the guaranteed minimum amounts of social benefits in comparison with the established poverty line. In doing so, the government may wish to refer to the infographs in the above-mentioned “Technical note” and update the statistical and legal information on which they are based.

CEACR 2015 Conclusions on the application of the European Code of Social Security and its Protocol by the Netherlands

As a result of its examination, the Committee finds that the law and practice in the Netherlands give full effect to all accepted Parts of the Code and the Protocol, subject to receiving detailed information concerning Part IX.

Part II (Medical care) of the Code. The Committee takes due note of the detailed explanations supplied by the Government in reply to its previous conclusions concerning the application in law and practice of the following provisions of the Code: *Article 10(1)(a)(i)* – domiciliary visiting by the general practitioners; *Articles 10(4) and 49(4)* – promotion of the general health services; *Article 10(3)* – objectives and quality of the medical care; and *Article 71* – participation of the representatives of the persons protected in the management of the health insurance scheme. The Committee concludes that Part II is fully applied.

Part IV (Unemployment benefit) in conjunction with Article 68(f). In its previous conclusions, the Committee noted that, according to article 24(2) of the Unemployment Insurance Act, an employee is considered to be culpably unemployed when the unemployment occurred due to compelling reasons as mentioned in article 678 of Book 7 of the Civil Code and the employee is culpable for becoming unemployed. Among such compelling reasons, article 678(k) and (l) mentions cases when the employee “neglects his duties in a flagrant way” or “is not able to perform his duties due to his own recklessness”. Taking into account that neglect and recklessness on the part of the employee leading to dismissal may not necessarily constitute “wilful misconduct”, which alone may be sanctioned under *Article 68(f)* of the Code, the Government in a special letter has drawn the attention of the Institute for Employee Benefit Schemes (UWV) to the obligation of the Netherlands under the Code to apply sanctions only in cases where neglect or recklessness amounted to *wilful* misconduct directly causing unemployment of the person concerned. In its 2011 Resolution on the application of the Code by the Netherlands, the Committee of Ministers asked the Government to monitor the effect of this letter and to compile statistics on the number of such cases. ***The Committee therefore asks the Government to supply any relevant statistics, guidelines to the deciding officers issued by the UWV, and examples of decisions where suspension of benefit was applied only after ascertaining that the misconduct was wilful and has directly caused the contingency in question.***

Part V (Old-age benefit), Article 67. Calculation of the rate of the old-age benefit. The Committee notes that all AOW pension monthly rates calculated in the report as from 1 January 2015 for single persons, married couples or partners (presumably after 20 years of residence in the country) without the supplementary allowance are well below the minimum wage (€1586 gross per month including holiday payment), which represents the full amount of the

AOW pension set at the level of the net legal minimum wage (LMW) used for defining the minimum social benefit level in the Netherlands. The Committee understands that pension amounts in case pensioners are living together are given per person and should be multiplied by two to obtain the pension for a married couple of pensionable age (the standard beneficiary for Part V). According to the report, the *gross* amount of the pension includes the AOW top-up of €25.35, which stays the same in all cases, but excludes the holiday allowance, which varies from case to case. No explanations are given as to why one is included and the other is not and how the amount of supplementary allowance, which varies from case to case, is determined. With regard to the *net* pension amount, the difference between net AOW pension rate and net LMW becomes substantially greater after deduction of tax and national social insurance contributions, depending on whether the calculations are made with or without tax credit. The Committee thanks the Government for the comprehensive examples of the AOW pension calculations for beneficiaries in various situations. ***The Committee asks the Government to specify (a) which of the situations described in the report under the heading “you are married or living with a partner” the Government proposes to consider as the case of the standard beneficiary under Part V (man with wife of pensionable age) having 20 years of residence. Please also specify (b) whether the rate of the old-age benefit under Part V shall be calculated in gross or net figures, with or without tax credit, and with or without Zvw contribution, AOW top-up and holiday allowance; and (c) the nature and the conditions of entitlement to the supplementary allowance and the extent to which it shall be taken into account in the calculations.***

The Committee further notes that pensioners who receive a partial AOW pension may claim supplementary assistance under the Work and Social Assistance Act up to the amount of a full AOW pension, which is higher than the level of the old-age pension fixed by the Protocol (45 per cent of the reference wage of an unskilled manual male worker). However, such social assistance is granted on condition that any other income of the couple will be deducted, with the exception of €35.20 per month for married persons. The Committee recalls that, according to *Article 67(b)* of the Code, the amount of social assistance granted, up to the full AOW pension, may be reduced only to the extent by which the other means of the family of the beneficiary exceed certain prescribed substantial amounts. The rate of the benefit and the substantial amounts not to be included in an income test are to be determined according to the statutory rules, which exclude discretionary decision making on the part of the authorities. ***As the above exception of €35.20 per month for married persons cannot be considered substantial in the meaning of Article 67(b) of the Code, the Committee asks the Government to specify (d) what other amounts of income or means are left at the disposal of the standard beneficiary and not taken into account when granting the couple social assistance to the full AOW pension; and (e) whether the appreciation of these amounts is left to the discretion of the local authorities providing assistance, or is determined according to a prescribed scale. In order to make the calculations of the benefit rate as clear and transparent as possible, the Government is asked to follow the questions of the Report Form under Article 67 of the Code.***

The Committee recalls that where the old-age benefit covers all residents subject to the means test under *Article 67* of the Code, as in the Netherlands, the Protocol provides for additional protection of the prescribed classes of employees or economically active population by guaranteeing them a prescribed benefit without means tests (*Article 28(b)* of the Code, as amended by the Protocol). ***The Committee asks the Government to specify (f) whether the Dutch pension system provides such additional guarantees.*** Finally, the Committee notes from figure 7 of the ILO technical note, in the chapter on Adequacy of benefits, that 8.6 per cent of pensioners have an income below 60 per cent of the median equivalized income, notwithstanding the fact that the minimum pension is fixed at the level of the LMW, well above

this at-risk-of-poverty threshold. ***It asks the Government to explain (g) the reasons for the persistence of poverty among pensioners in the Netherlands, if all residents can claim social assistance to the full AOW pension at the LMW level.*** This question leads the Committee to recall the recommendation to the Netherlands made by the United Nations Committee on the Economic, Social and Cultural Rights in paragraph 20 of its 2010 Concluding observations on the application of the ICESCR, “to assess the impact of its enactments regarding old-age pension on the standard of living of pensioners”, bearing in mind the risk of poverty for pensioners caused by the increasing mobility of workers, shorter insurance and residence periods, and the fact that the amount of the full pension is at the level of the minimum wage. The 48th report on the Code adds to the list of such enactments the decisions to cancel the AOW supplementary allowance for pensioners with a spouse under the pension age of 65 and the supplement to the AOW pension providing an extra financial contribution for the cost of living, which was replaced by a special income support based on the number of years that the pensioner has been living in the Netherlands. ***The Committee asks the Government to specify (h) the impact of these enactments on the amount of the AOW pension of the categories of persons concerned and on the rules of adjustment of the AOW pension to the cost of living in accordance with Article 66(8) of the Code.***

Part IX (Invalidity benefit). In its 2012 Resolution on the application of the Code by the Netherlands, the Committee of Ministers requested that the Government’s subsequent reports contain information on the application of Part IX under the Revised Code, which applied a different conceptual approach to disability. Please provide for the period covered by the statistical information on the performance of the national disability insurance scheme in terms of increasing labour market participation of the disabled, including the number of persons with total and partial disability; persons actually receiving disability benefits; persons with disabilities undergoing medical, occupational or social rehabilitation; persons with disabilities employed in the open labour market, in extra jobs specially created for people with disabilities, in sheltered employment or supported by other active labour market policies; as well as the share of persons with disabilities on the margins of the labour market, in long-term unemployment and in poverty.

Part XI (Standards to be complied with by periodical payments), Articles 65–67. Determination of the reference wage and calculation of the level of benefits. With reference to its previous conclusions on this issue, the Committee thanks the Government for the thorough consideration of the question of choosing the reference wage for the calculation of the benefit replacement rate and holding technical consultations for that purpose with the experts from the ILO and the Council of Europe, which took place in the Hague on 5 November 2015. The Committee notes from the report and the consultations that in the Dutch social security system the replacement rate of the wage-related benefits is fixed in the law as a prescribed percentage of the actual worker’s wage (sickness benefit – 70 per cent, unemployment benefit – 75 per cent for two months and 70 per cent thereafter, maternity benefit – 100 per cent) within the range of a minimum and maximum benefit. The Committee reminds the Government that for assessing the level of wage-related benefits, *Article 65* of the Code should be used when in the national system a maximum limit is prescribed for the rate of benefit or for the insured earnings (paragraph 3 of *Article 65*), and *Article 66* – when the national system prescribes a guaranteed minimum rate of benefit. In the Netherlands, the maximum limit for the rate of the benefit is set at €3,044, which is higher than the reference wage of the skilled manual male employee calculated under any of the options permitted by *Article 65(6)* of the Code. The conditions as to the maximum limit of the benefit imposed by paragraph 3 of *Article 65* being fulfilled, the Committee concludes that the rates of the Dutch wage-related benefits provided under Parts III, IV and VIII of the Code surpass the replacement rate of 50 per cent fixed by the Protocol.

With respect to the invalidity benefit, the report also indicates that it is related to the salary of the worker within the range of a minimum and maximum benefit, but proposes to calculate its replacement rate under *Article 66* on the basis of the minimum amount of benefit set at €1,628 (minimum wage per month including holiday payment). ***The Committee refers to its comments under Part IX of the Code above, and asks the Government to specify in its next report, in the same manner as for the old-age benefit under Part V above, the elements of the invalidity benefit for the standard beneficiary which shall be taken into account for calculating its rate, and any social assistance supplements topping it up to the minimum guaranteed level.*** With respect to the old-age benefit and the survivors' benefit, the report indicates that the rates of the full pensions are calculated as a fixed percentage of the net LMW (old-age benefit – 100 per cent or €1,586 gross per month including holiday payment (see footnote on page 24 of the report), and survivors' benefit – 70 per cent or €1,224 gross per month). The Committee points out that the amount of €1,586 representing 100 per cent of the LMW does not correspond to the amount of the LMW of €1,628 (minimum wage per month including holiday payment) given in relation to the sickness, unemployment and maternity benefits. ***As regards detailed calculations in the report of the rates of survivors' benefits, including the AWW widow's pension and orphan's benefit in different situations, the Committee asks the Government to provide the same explanations as requested under Part V above in order to give a clear and transparent picture of the survivors' benefits calculation as well.*** The Committee reminds that the rate of these benefits shall be calculated as a combined amount of benefits due to a widow with two children under 15 years of age whose breadwinner has completed only ten years of residence. The rates of the old-age, survivors' and invalidity benefits should be calculated not at 40 per cent of the reference wage as it is done in the report, but at the rate of 45 per cent in the cases of old-age and survivors' benefits and 50 per cent in the case of invalidity benefit, as it is established by the Protocol. As what concerns the determination of the reference wage of an ordinary adult male labourer to be used for assessing the level of benefits provided under Parts V, IX and X of the Code, as amended by the Protocol, the Committee will review the method used by the Government once it obtains the necessary clarifications in the next detailed report of the Government and acquires full understanding of the calculation of the rates of these benefits under *Articles 66 or 67* of the Code. ***Meanwhile, the Government is invited to update the statistical information on the reference wage in the attached ILO technical note on the basis of the new Eurostat Structure of Earnings Survey to be published in May 2016.***

Adjustment of benefits to the cost of living. ***The Committee asks the Government to explain its policy of maintaining the purchasing power of the long-term benefits in payment and giving the pensioners a fair share of the growth of the national economy. Please include in the next detailed report full information and statistics on the adjustment of benefits under Parts V, IX and X for the period 2011–16 requested in the Report Form on the Code under Title VI of Article 65.***

Part XII (Common provisions), Article 70(3). General responsibility of the State for the due provision of benefits. The Committee notes that, on 26 February 2015, the European Commission published its 2015 country report for the Netherlands, which assessed the Netherlands' progress in addressing the country-specific recommendations adopted in 2014. The Commission's analysis concludes that the Netherlands is experiencing macroeconomic imbalances, which require policy action and monitoring, and that the structure of the pension and tax systems may potentially be a source of inefficient allocation of capital. Therefore, the new country-specific recommendations adopted on 14 July 2015 summoned the Netherlands to take action in 2015 and 2016 to, inter alia: "3. Reduce the level of contributions to the second pillar of the pension system for those in the early years of working life". ***The Committee would like to recall in this respect that Article 70(3) of the Code places the determination of the***

basic parameters of the pension system under the general responsibility of the State and requires the Government, prior to making any change in the rate of insurance contributions, to carry out the necessary actuarial studies and calculations. With regard to other pillars of the pension system, paragraph 10 of the country-specific recommendation for the Netherlands states that “the long-term sustainability of the pension system has been improved. In addition to gradually increasing the first-pillar statutory retirement age from 65 years in 2012 to 67 years in 2021 and linking it to life expectancy thereafter, the Netherlands has adopted comprehensive reforms of the privately funded pillar of the pension system and in the long-term care system. The financial supervision of pension funds has been improved and the system made more resilient to financial shocks. This has been complemented by successful reforms encouraging older workers to work longer.” ***In the light of these developments, the Committee would like the Government to explain the role assigned to each pillar in the design of the national pension system and to indicate the scope of coverage and the combined replacement rate of the pensions provided by the three pillars.***

Adequacy of social security benefits. The Committee notes that the report contains full information and data on the structure and dynamics of poverty and the related policy priorities of the Government. The report highlights the fact that social protection has predominantly been decentralized in the Netherlands placing municipalities in the frontline in delivering a large range of social services and care such as youth care, community shelter, participation, poverty, social inclusion and debt relief. Municipalities are not just responsible for the delivery of services, but are also in charge of the assessment procedure and have – to a great extent – discretion over the type, amount or length of services to be provided in each case. The main reason behind this decentralized form of governance is to encourage tailor-made support for the individual or family in question. The Committee agrees with the Government that municipal social services, income assistance and local tax waivers, which are not usually reflected in macro-economic figures and poverty statistics, together with the Government’s support to local authorities and civil society organizations, indeed provide important inputs in fighting poverty which complement the social security benefits, thus permitting the country to have a comprehensive system of social protection. While discretionary social assistance run by the municipalities falls outside the scope of the social security system regulated by the Code, which includes only universal means-tested social assistance benefits provided as of right, it may become the only social protection mechanism left to insured persons who have exhausted their social insurance benefits. It is crucial therefore that the legal interface between social security and discretionary social assistance is designed in such a way as to establish a universal social protection net preventing these persons from sliding into poverty and social exclusion. The Committee wishes to underline in this respect that data on the number of insured persons requesting social assistance and the nature of social services required are important indicators of the effectiveness of the national social insurance system as a whole. Considering that social insurance systems usually aim at providing benefits high enough to prevent their beneficiaries from resorting to additional social assistance, an important insight as to the adequacy of its benefits may be obtained through an analysis of the statistics on the number of recipients and the types of social assistance provided by the municipalities. In view of the variety of ways in which social security and statutory social assistance are used to prevent or reduce poverty and the complexity of indicators used to assess the adequacy of benefits, the Committee requested the ILO to summarize the relevant information in the country technical notes attached to its conclusions. ***The Committee invites the Government to check its accuracy in its next detailed report, which shall also include up-to-date statistics on social security coverage, amount of the reference wage and calculations of the replacement rate of benefits.*** The Committee will examine the question of the adequacy of social benefits on the basis of this comprehensive

information and the discussion on the role of social security in the reduction of poverty, which is scheduled to take place in the Governmental Committee of the European Social Charter and the European Code of Social Security in May 2016.

Article 74. Next detailed report on the Code. (See above under Chapter III)

3. ILO Conventions

Social Security (Minimum Standards) Convention, 1952 (No. 102) Netherlands (*Ratification: 1962*)

Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

The Committee notes the Government's report and replies to its previous comments, as well as the observations made by Netherlands Trade Union Confederation (FNV) dated 30 August and 16 September 2013. As these observations relate to the sickness benefit, the Committee considers them under the Medical Care and Sickness Benefits Convention, 1969 (No. 130), also ratified by the Netherlands.

Part VIII of the report form. Maternity benefit. Articles 49 and 52 of the Convention. According to the Government's 44th report on the European Code of Social Security, maternity care is provided for mother and baby for up to ten days after childbirth. There is no cost sharing for maternity care on medical indication. According to the Government's reply to the Committee's previous observation in this respect, all medical care related to childbirth is covered in the basic coverage. ***The Committee would like the Government to substantiate these contradictory statements by reference in both cases to concrete provisions of the national legislation.*** The Committee wishes to recall in this respect that the contingencies covered by Part VIII include pregnancy and confinement and their consequences, and that medical care in case of consequences shall be provided free of charge until restoring the health of the woman concerned.

Part XI. Standards to be complied with by periodical payments. Articles 65 and 66. The Committee notes that the Governmental Committee of the European Social Charter and the European Code of Social Security of the Council of Europe (127th Session, May 2013) has requested the ILO to undertake a comparative study on the methodology for determining the reference wage of the standard beneficiary used by the ratifying countries for the calculation of the replacement rate of benefits. The Committee hopes that this study will be carried out early in 2014 and will permit the Committee to better assess the application of Part XI of the report form and the Code in the changed economic and labour market conditions in the European countries. The Committee will consider the information supplied by the Dutch Government concerning the methodology for determining the reference wage of the skilled and unskilled worker in the light of this study.

Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121) - Netherlands (*Ratification: 1966*)

Observation (CEACR) - adopted 2011, published 101st ILC session (2012)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

The Committee notes the Government's detailed report received on 29 August 2011, which contains a reply to the Committee's previous observation concerning the compatibility with the Convention of the main aspects of the Work and Income (Employment Capacity) Act of 2006 (WIA). It also notes the comments on the report, dated 31 August 2011, submitted by the Netherlands Trade Union Confederation (FNV) and the National Federation of Christian Trade Unions (CNV), to which the Government replied in a letter of 18 October 2011. The Committee

further notes that various meetings were held between the Dutch Government and senior officials of the Office concerning ongoing compliance issues involving the WIA.

The Committee would like to thank the Dutch Government for the additional efforts it undertook to clarify its position and legislation, as well as to maintain the social dialogue with the trade unions, which provided the Committee with in depth information on the application of the Convention both in law and in practice. The Committee recalls that its previous observation was entirely directed to an analysis of the WIA, including WIA coverage of the contingency of total or partial loss of earning capacity likely to be permanent, as defined in *Article 6(c) of the Convention*. As indicated in its previous observation, the Committee has decided to examine in its present comments the protection accorded by other Dutch implementing legislation, specifically legislation addressing the contingency of a morbid condition due to an employment injury (*Article 6(a) of the Convention*), which is provided by the health insurance scheme. For that purpose, the Committee has taken note also of the information contained in the Government's detailed report on the Medical Care and Sickness Benefits Convention, 1969 (No. 130), both of which were ratified by the Government in view of the linkages between these two Conventions, and of the dialogue it has with the abovementioned trade union organizations. The Committee will examine at its next sessions the protection offered by the Dutch legislation against the contingency of temporary or initial incapacity for work (*Article 6(b) of Convention No. 121*), which is provided by the mixed private/public system based on employers' civil liability to maintain wages during the first two years of sickness underpinned by the public safety net established by the Sickness Benefit Act (ZW), as well as the contingency of loss of support due to the death of the breadwinner (*Article 6(d)*) covered by the General Surviving Relatives Act (ANW).

Articles 7 and 8 of the Convention in conjunction with Article 26. Definition of industrial accident and occupational disease. With respect to these provisions of the Convention, the Government limits itself to stating that there is no special scheme concerning industrial accidents or occupational diseases and employees are compensated regardless of the cause of the disability. ***The Committee requests the Government to indicate whether the national labour or occupational safety and health legislation contains definitions of industrial accident and occupational disease, as well as a list of such diseases, established for the purpose of reporting and monitoring industrial accidents and occupational diseases. The Committee also requests that the Government provide information on accident and disease investigations by the labour inspectorate on the imposition of appropriate sanctions, and on the elaboration of measures for preventing industrial hazards, developing occupational health services, and determining employer liability for damages to workers' health. Please indicate whether the Netherlands collects statistical data on the frequency and severity of industrial accidents and, if so, supply this data with the Government's next report.***

Medical care and allied benefits

The Committee notes that the Netherlands health insurance system has undergone a radical reform after the entry into force on 1 January 2006 of the Health Insurance Act, under which health insurance was fully privatized. ***The Committee requests the Government to explain whether there remain any type of public health services or medical institutions in the area of occupational health and rehabilitation and, if so, whether health-care insurers are encouraged to use these services and institutions for the treatment of employment injuries.***

Articles 4 and 9. Coverage by the health insurance scheme and conditions of entitlement to benefits. The Committee notes that, in its comments under Convention No. 130, the FNV states that the Health Insurance Act is not a general public scheme in the sense that all citizens are compulsory insured, but a private insurance scheme under which all citizens are obliged to take

out health-care insurance from private companies. The FNV further states that, given the private nature of the scheme, the Government cannot guarantee that all employees are protected and that in 2011 at least 150 000 persons of all classes and ages are not insured.

In reply, the Government's report on Convention No. 130 states that, while full coverage is not guaranteed, the essential factor is that there is a governmental measure that offers the protection desired. Whether the persons to be protected wish to accept such protection or not is up to them, but if they do not conclude a health insurance contract, they may end up being unable to pay the costs of the required care in case of serious illness or accident. In general, this outcome is not acceptable and the Government acts to urge such persons to take out health insurance. Furthermore, if, having concluded an insurance contract, a person for some reason does not pay the normal insurance premiums, the care insurer is entitled to terminate the health insurance. "After all", says the Government's report, "it is an agreement under private law". This situation too can lead to highly undesirable consequences if the insured person ends up needing care, and the Government reports that it is being taken care of through additional legislative measures.

With regard to the evasion of concluding health insurance contracts, the Government indicates in its report on Convention No. 121 that a new law took effect on 15 March 2011 designed to identify uninsured persons by means of database comparisons and obliging them to take out health-care insurance under the threat of two successive penalties equal to three times the standard premium. After two penalties have been imposed, the Health Insurance Board will take out insurance on behalf of anyone who is still uninsured, summoning this person to pay an administrative premium for 12 months, which, where possible, will be withheld at source. With the introduction of this measure the Government can guarantee that all persons legally residing in the Netherlands are protected. With respect to the evasion of paying health insurance premiums, the Government indicates that, starting on 1 September 2009, measures have been taken to reduce the number of people who do not pay premiums on time or do not pay at all. According to the Health Insurance Act, when the insured person is in arrears for an amount equivalent to six months' premiums, the obligation to pay the nominal premium to the care insurer is converted to an obligation to pay the Health Insurance Board an administrative premium equal to 130 per cent of the standard premium. The Board imposes this levy on the defaulter, bears responsibility for its collection and pays a compensation for the loss of premium to the care insurer.

The Committee notes the measures taken by the Government to ensure coverage of persons who would otherwise be left unprotected by the private health insurance scheme functioning with a view to profit. ***It requests the Government to indicate how many employees were found by the Health Insurance Board to lack health insurance coverage and whether the employer has any obligation to check that its employees have the proper health insurance coverage.*** The Committee further notes that all the measures to improve coverage are based on the imposition of substantial fines on those persons whom the Convention seeks to protect automatically and free of charge. The Committee points out that if, for example, a partially disabled employee has no money to pay health insurance premiums, imposing additional fines on that person would only aggravate the situation of hardship, which the Convention prescribes the Government to avoid. ***The Committee wishes the Government to explain in this respect to what extent the improvement of coverage has been achieved through the social assistance mechanism established by the Health Care Allowance Act (Wet op de zorgtoeslag), under which persons for whom the nominal premium is too high in relation to their income may receive an allowance paid by the tax authorities.***

With respect to the right of private insurance companies under private law to desist themselves from the obligation to provide care in case of non-payment of premiums, the Committee points out that, according to the Convention, the national legislation concerning employment injury benefits shall protect all employees and ensure that benefits are provided without any supplementary conditions not mentioned in the Convention. *Article 9* of the Convention guarantees eligibility for benefits on the basis of the employment relation alone and forbids subjecting eligibility to the payment of insurance contributions or premiums. In the Netherlands' case, this would mean that employees suffering employment injury shall be given prescribed medical care and allied benefits even in the absence of a duly concluded individual health insurance contract or the required premium payment. ***The Government is invited to explain how and by virtue of which provisions of the national legislation the necessary emergency and follow-up medical treatment are provided to an employed person who at the moment of an industrial accident or manifestation of an occupational disease did not possess a health insurance contract or whose contract was terminated due to non-payment of premiums.***

Article 10(1). Types of care to be provided. The Government report states that all persons legally residing in the Netherlands, or non-residents who work and pay income tax in the Netherlands, are obliged to take out health-care insurance under the Health Insurance Act and the Exceptional Medical Expenses Act and that they then become entitled to benefits in kind or to reimbursement of the costs of the medical care they receive. The types of benefits to be covered by the insurance package are statutorily defined under the two Acts and are provided irrespective of the cause for the need of care. ***The Committee would like the Government to explain under which legal provisions and practical arrangements emergency and follow-up treatment in case of employment accident stipulated in Article 10(1)(g) would be provided free of charge at the place of work. Please also indicate under which provisions of the Health Insurance Act care provided by general practitioners and specialists includes domiciliary visiting, as stipulated in Article 10(1)(a) of the Convention.***

The report states that dental care for insured persons aged 18 and over is limited to specialized surgical dentistry (oral surgery), the associated X-rays, and dentures. People with an exceptional dental disorder, physical/mental disability or special dental problems resulting from medical treatment are entitled to complete dental care (subject to special conditions). The Committee recalls that *Article 10(1)(b) and (e)* of the Convention requires provision free of charge of complete dental care, not limited to surgery and including fillings, root-canal treatment, extractions, dental supplies, etc., in case such care is necessary as a result of occupational accident or disease. ***Please state what additional measures are foreseen under the Dutch health insurance scheme to provide such care to victims of employment injuries.***

Article 10(2). Effectiveness of medical care. The Government states in its report on Convention No. 130 that the care system in the Netherlands has been organized in a way that will reduce direct government involvement. This is achieved through the "functional description" of care covered by the insurance package. The Government lays down legal requirements only for the content and extent of coverage and the medical indications that trigger coverage. It is the responsibility of the care provider to decide who provides the care and where. According to the Government, the choice for having private insurance that assigns greater responsibilities to insurers who are allowed to make a profit makes it inappropriate for the Government to supervise the effectiveness of the way health insurance is operated. Therefore, the Government continues, the main objective in overseeing lawful performance of health insurance is for the Government to ascertain whether the care insurer is fulfilling its obligation to provide insured persons with the services they are entitled to under the Health Insurance Act.

The Committee points out that such limited supervision of the quality and effectiveness of the medical care provided by private insurers seeking to make a profit, and therefore perhaps interested in reducing the volume and cost of care, might not be sufficient in view of the obligation imposed on the Government by *Article 10(2)* of the Convention to ensure that the medical care afforded to employment injury victims conforms to the highest practicable standard, using all suitable means. ***The Committee therefore asks the Government to explain what procedures exist to include among reimbursable care new technologically advanced treatments, which might help to restore health in particularly serious cases and whether there exist medical centres specializing in treatment of industrial accidents and occupational diseases that possess state-of-the-art knowledge in this area. Please indicate whether the Health Care Inspectorate (IGZ) which is entrusted with overseeing the quality of public health, or the occupational health services, possess any system of indicators measuring effectiveness of medical and professional rehabilitation of employment injury victims.***

Article 11(1). Participation in the cost of medical care. In its previous observation, the Committee asked the Government to examine whether persons in need of prolonged care or particularly expensive treatment may find themselves in a situation of hardship in view of the fact that victims of employment injuries are required to share costs for certain types of medical care, and are subject to limitations in duration and number of treatments. In this respect the Committee notes from the Government's reports on Conventions Nos 121 and 130 that victims of employment injuries are subjected to the same limitations on the quantity of care as other persons insured under the Health Insurance Act. Types of care typically offered by medical specialists may be excluded by the insurance companies from reimbursement; physiotherapy and remedial therapy are confined to the treatment of chronic disorders, excluding the first 12 treatments for each disorder; occupational therapy, which is particularly important in case of employment injuries, is provided up to a maximum of ten treatment hours per year; dental care is limited to specialized oral surgery, the associated X-rays and dentures. The cost of treatment in excess of these limitations would have to be assumed by the persons concerned, who are also required to pay fixed contribution amounts to the cost of various types of medical care included in the basic health insurance package up to a maximum of €170 per year for 2011 (so called "compulsory deductible"). Persons who incur structural care expenses due to chronic illness or disability receive financial compensation so that they do not pay more in terms of compulsory deductible than an average insured person who receives no compensation. For most types of care under the Exceptional Medical Expenses Act, a personal contribution is also required, the amount of which depends on the taxable income, age, marital status and the living situation of the person concerned. In 2011, the cost sharing in case of residential care in an institution amounted to a maximum of €764.40 per month during the first six months of stay and to a maximum of €2,097.40 per month thereafter. As of 1 January 2009, the Chronically Ill and Disabled Persons (Allowances) Act (Wtcg) has introduced a number of measures to offset extra care expenses incurred by these categories of persons. The Government emphasizes that these measures together with the establishment of the maximum for the compulsory deductible are taken to ensure that cost sharing does not involve hardship for insured persons.

The Committee observes that the rules on cost sharing and limitations of certain types of medical care laid down in the Dutch legislation are designed for the general population and do not take into account the special needs and the financial situation of the persons suffering employment injuries, particularly those requiring prolonged and expensive care. The Committee further notes, from the Government's report on Convention No. 102, that in order to receive a discount on the insurance premium, persons with good health as a rule choose a health insurance policy with a high level of personal contribution to the cost of care (personal excess). At the meetings with ILO officials referred to above, the Government confirmed that the present cost-sharing requirements

and limitations in duration and number of treatments paid by the insurance did not exclude the possibility of some employment injury victims finding themselves in a situation of hardship and compelled to refuse further necessary treatment due to lack of money. Situations where victims of employment injuries are compelled to stop medical treatment because of the inability to pay for it would contradict the very purpose of the Convention, which makes the Government responsible for the due provision of medical and allied benefits with a view to maintaining, restoring or improving the health of the injured person (*Articles 10(2) and 25 of the Convention*). ***The Committee would therefore ask the Government to conduct a thorough study of the existing limitations and cost-sharing arrangements with respect to the statutory medical benefits, so as to identify and prevent possible situations of hardship that may affect the standard beneficiary (man with wife and two children) who has fallen victim of a serious employment accident or a chronic occupational disease.*** The Committee notes in this respect that insurance covering the costs of the medically necessary transport of patients includes a hardship clause, which provides for reimbursement of additional transport costs encountered by persons following a prolonged treatment. ***The Committee would ask the Government to consider incorporating similar hardship clauses into the insurance rules covering other types of costly medical care and allied benefits, which may be identified by the study mentioned above.***

Article 24. Participative management of the health insurance scheme. The Committee notes that in the Netherlands the administration of health insurance is not entrusted to an institution regulated by the public authorities, but is entirely in the hands of private insurance companies which run it for profit. For such schemes *Article 24(1)* of the Convention requires the national legislation to prescribe conditions for the participation of the representatives of the persons protected in the management of the scheme. To promote its management on a tripartite basis, the legislation may provide for the participation of representatives of employers and of the public authorities. The Convention also requires the Government to accept general responsibility for the proper administration of the health insurance institutions and providers of medical services. With respect to the application of these provisions of the Convention, the Government's 2011 report indicates no changes and refers to the previous reports, whereas the previous report of 2009 simply states that *Article 24* is not applicable. In its report on Convention No. 130 under *Article 31*, which contains similar provisions concerning the participative management of the health insurance schemes, the Government states that the basic principle of health insurance in the Netherlands is that insured persons must be able to exert influence on the policy of the company that insures them. A care insurer's articles of association must ensure that insured persons possess a reasonable degree of influence over the company's policy. The Committee wishes to point out in this respect that reliance on the private care insurer's articles of association is not sufficient to give effect to these provisions of the Convention, which require the right of the persons protected to be able to influence the company's policy through participation of their representatives in the company's management as directed under national law. The Committee also points out that *Article 24* of Convention No. 121 remains fully applicable to the Netherlands. Moreover, the Government carries the general responsibility for ensuring that the national health insurance scheme is managed in a democratic and transparent manner with the proper participation of the trade unions and other organizations representing the persons protected together with the professional associations representing care providers and the medical profession. ***The Committee therefore asks the Government to supply full information in its next report on the application of Article 24 of the Convention in Dutch law and in practice.***

The Work and Income (Employment Capacity) Act of 2006 (WIA)

In its previous observation, the Committee had concluded that the WIA was incompatible with Convention No. 121 on the following points:

- that the WIA leaves victims of employment injuries with incapacity up to 35 per cent without any form of compensatory benefit, contrary to *Article 14(4)* of the Convention;
- that the Income Provision Scheme for Fully Occupationally Disabled Persons (IVA) permits the benefit to be reduced by 70 per cent of the income earned by the beneficiary from employment or self-employment, whereas the Convention does not authorize any reduction of the benefit in case a fully incapacitated person finds the force to earn additional income from any gainful occupation, permitting him to combine disability benefit with income from work;
- that under the Return to Work Scheme for the Partially Disabled (WGA) the qualification requirements for entitlement to the wage-related WGA benefit and to the wage supplement impose restrictive conditions that are contrary to the Convention;
- that the nature and the extent of the obligations and sanctions in case of non compliance, to which the WIA subjects the recipients of the follow-up WGA benefit, go beyond limitations permissible under *Article 22* of the Convention and should be reviewed;
- that the disproportionately low level of the follow-up WGA benefit might result, contrary to the objective of *Article 14(5)* of the Convention, in hardship for many partially disabled persons, obliging them to apply for social assistance in case they do not find sufficiently paid employment.

The Committee has examined the Government's report on the Convention and its reply on the legal inconsistencies mentioned above in the context of the Government's stated objective to reduce by all means the number of claimants of disability benefits and the Committee has taken due note of the explanations provided by government officials during the consultations with the Office, which have permitted clarification of certain technical questions.

The Committee nevertheless decides that there are no new elements that would cause it to change its previous conclusions on the WIA. It notes, however, that the Government has disagreed with these conclusions and has challenged the Committee's understanding of the content of related provisions of the Convention. In particular, the Government has considered that, although Convention No. 121 refrains from explicitly mentioning the possibility of imposing sanctions on an occupationally disabled person who fails to cooperate with his/her reintegration, the provisions of a Convention must not be interpreted statically, but in line with social developments; it is thereby appropriate to impose sanctions if the person concerned fails to cooperate with his/her reintegration.

The Committee also notes that the comments submitted by the trade union organizations contest the arguments advanced by the Government, and describe the worsening employment and income situation of disabled workers as calling into question the effectiveness of the WIA and of the overall government policy concerning the invalidity benefit scheme.

The Committee observes that responding in full to the Government's position would require lengthy explanations of the scope and purpose of different provisions of the Convention in the context of the evolution of international social security law, and this would run into scores of pages, well beyond what can be reasonably accomplished during a single session of the Committee. The Committee further observes that certain questions raised by the trade unions in their disagreements with the Government take the discussion into policy areas and consideration of alternative solutions, well beyond the legal framework of the Convention. ***In this situation, the Committee invites the Office to make contact with the Government in order to find the most suitable way of providing it with the necessary background information on the contested provisions of the Convention and thereafter identify the remaining issues on which the Government would then still like to solicit the explanations of the Committee. The Committee***

would like to be informed of these issues sufficiently in advance to be able to respond to them at its next session in November–December 2012, but in any case not later than 1 September 2012.

Medical Care and Sickness Benefits Convention, 1969 (No. 130) - Netherlands (Ratification: 2006)

Observation (CEACR) - adopted 2013, published 103rd ILC session (2014)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

Article 31 of the Convention. Participative management of the health insurance scheme. In its previous comments, the Committee noted that in the Netherlands the administration of health insurance is not entrusted to an institution regulated by the public authorities but is entirely in the hands of private insurance companies, which run it for profit. For such schemes, *Article 31* of the Convention requires the national legislation to prescribe conditions for the participation of the representatives of the persons protected in the management of the scheme. To promote its management on a tripartite basis, the legislation may also provide for the participation of representatives of employers and of the public authorities. *Article 30(2)* requires the Government to accept general responsibility for the proper administration of the health insurance institutions and providers of medical services, ensuring that the national health insurance scheme is managed in a democratic and transparent manner, with the proper participation of the trade unions and other organizations representing the persons protected together with the professional associations representing care providers and the medical profession. In the light of these explanations, the Government was asked to supply full information on the application of *Article 31* of the Convention in the Dutch health insurance scheme. In reply, the Government states that *Article 31* “is not applicable to the Dutch health care system”. The Committee understands from this reply that the provisions of *Article 31* are not applied in Dutch law and practice and that the Government has no intention of changing this situation. Noting this development with *concern*, the Committee cannot but observe that the position of the Government perpetuates the violation by the Netherlands of its obligations under a ratified international treaty, which is this Convention.

The Committee is raising other points in a request addressed directly to the Government.

Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

With reference to its observation, the Committee notes the Government’s report on Conventions Nos 102, 128 and 130 containing its reply to the direct request of 2012 concerning Convention No. 130, as well as the observations made in this respect by the Netherlands Trade Union Confederation (FNV) dated 30 August and 16 September 2013.

Part II (Medical care) of the report form and Article 13(a) of the Convention. Domiciliary visiting. In reply to the Committee’s previous comments, the Government states that domiciliary visits are covered by the basic insurance coverage, but a general practitioner is not obliged to perform such visits at the request of the insured person unless he or she deems it necessary due to the severity of the condition and the health-care history of the patient. The Committee recalls that the content and scale of medical benefits included in the basic insurance package under the Health Insurance Act are regulated by the Health Insurance Decree and the Health Insurance Ministerial Order. ***The Committee would like the Government to specify the provisions in these***

or any other relevant texts which expressly refer to domiciliary visiting by general practitioners, as required by Article 13(a) of the Convention.

Article 13(e). Dental care for adults. The report confirms that dental care for insured persons over 18 years is limited to specialized surgical dentistry (oral surgery), the associated X-rays and dentures, and therefore excludes essential dental care usually provided by dentists, such as preventive advice, check-ups, fillings, root canal treatment, extractions, dental supplies, etc. The FNV observes that most Dutch adults have to pay for dental care out of pocket or buy additional private dental insurance. As a result, the Dutch health-care system does not comply with the Convention. The Committee points out that dental care mentioned in *Article 13(e)* of the Convention forms part of medical care defined in *Articles 8* and *9* in the form of care of a curative and preventive nature afforded with a view to maintaining, restoring or improving the health of the person protected. This definition is obviously much larger than oral surgery covered by the Health Insurance Act and would normally include, as in other European countries, the essential dental care mentioned above. ***The Committee would like the Government to explain the reasons for leaving the essential dental care outside the basic health insurance coverage and the accessibility of the additional private dental care insurance to persons of small means protected by the Convention.***

Effectiveness of medical care. In its previous comments, the Committee noted that the Dutch Government limited its role in overseeing the health insurance to ascertaining whether the private insurer is fulfilling its obligation to provide insured persons with the services they are entitled to under the Health Insurance Act; it consequently pointed out that such limited supervision of the quality and effectiveness of the medical care provided by private insurers seeking to make a profit, and therefore interested in reducing the volume and cost of care, may pose a threat to fulfilling the obligation imposed on the Government by *Article 9* of the Convention to ensure that the medical care conforms to the highest practicable standard with a view to maintaining, restoring or improving the health of the person protected. The Committee therefore asked the Government to explain whether the Health Care Inspectorate (IGZ), which is entrusted with overseeing the quality of public health, or any other public body has established a system of indicators measuring effectiveness of medical care and monitoring the health status of the population.

In reply, the Government states that since 2007 the project “Zichtbare Zorg” (Visible Care) was set up to develop indicators to measure the quality of health-care provision. Since 1 January 2013, it has been absorbed by the newly established Dutch Quality Institute. The Government further states that the Dutch health-care system uses indicators to measure the quality of the health care provided, but emphasizes that the basic assumption is that patients, health insurers and health-care providers are best placed to determine good, quality health care and therefore make agreements on quality standards. ***The Committee understands from this statement that in order to determine the quality standards of medical care provided for the population the Government relies on supply and demand outcomes and would like the Government to explain the respective roles played in this process by the Dutch Quality Institute and the Health Care Inspectorate. In order to demonstrate that the Dutch health-care system has not lost its effectiveness after privatization in 2006, the Committee would like the Government to show in its next report, on the basis of the available health statistics and quality indicators for the period 2006–13, that the health status of the Dutch population has been improving.***

Part III (Sickness benefit). The report indicates that the conditions for entitlement to sickness benefit after the first year of illness have been made stricter through amendment of the Sickness Benefits Act (ZW) by the new Act limiting sick leave and incapacity entitlement for those covered

by safety net provisions, which entered into force on 1 January 2013. Firstly, the existing criterion of the ability to perform “his/her work” (the work performed most recently) was replaced by the criterion applied under the legislation on incapacity for work (WIA), and the ability to perform “generally accepted work”. The FNV observes that this change results in an unacceptable deterioration of protection for workers with temporary employment contracts compared to workers with permanent contracts, creating two types of workers with unequal entitlements to cash benefits in case of sickness. Secondly, similarly to the WIA, entitlement to sickness benefit was divided into two parts: a wage-related benefit and a minimum benefit. The period during which the wage-related benefit is paid will depend on a person’s employment record. However, the introduction of an employment record requirement has been legally postponed to 1 January 2014, while an alternative solution is being sought under the Coalition Agreement. The FNV adds that legislation for withdrawing this requirement is being prepared. Thirdly, the FNV observes that the Government’s report failed to mention the introduction, similarly to the WIA, of the 35 per cent threshold of loss of earnings for eligibility to sickness benefit after one year of illness. Henceforth, those workers who because of illness have lost less than 35 per cent of their earnings are simply no longer considered sick. The FNV finds all of the above three new conditions for entitlement to sickness benefit contrary to the Convention. Recalling that sickness benefit in the Netherlands is payable for a maximum of two years (104 weeks), the Committee notes that the said conditions are introduced after the first year of illness with respect to entitlement to sickness benefit for the second year. The Committee observes that transposing the requirements contained in the WIA with respect to the disability benefit on the sickness benefit changes the nature of the latter so that in its second year of payment it resembles more a disability benefit than a sickness benefit and thus falls outside the scope of the Convention. The Committee recalls, in this respect, that *Article 26(1)* of this Convention allows for a limitation of the sickness benefit to 52 weeks in each case of incapacity. ***The Committee asks the Government to confirm that stricter conditions for entitlement and stricter obligations placed on recipients to return to work introduced by the abovementioned Act do not concern the granting of the sickness benefit during the first 52 weeks of incapacity.***

Maternity Protection Convention, 2000 (No. 183) - Netherlands (Ratification: 2009)

Observation (CEACR) - adopted 2013, published 103rd ILC session (2014)

[Link to pending comments by the ILO supervisory bodies, NORMLEX](#)

Article 3 of the Convention. Health protection measures. Referring to its previous comments, the Committee notes that the representative organizations of workers and employers are consulted regarding the introduction of amendments to national legislation concerning the protection of health in the context of pregnancy and childbirth in conformity with the requirements of *Article 3* of the Convention. It further notes that following an amendment made in 2012 to the Working Conditions Decree (*Arbeidsomstandighedenbesluit*) of 1997, a new section 1.42a was added requiring the employer to provide effective information on the work-related risks during pregnancy and breastfeeding periods. Such information shall be provided within two weeks from the date the employer is notified of the worker’s pregnancy. This new provision thus complements section 1.42 of the aforementioned Decree, requiring employers to organize work in such a way as to eliminate risks to pregnant or breastfeeding employees and ill effects on pregnancy and breastfeeding. While indicating that there are no specific procedures put in place for the assessment of health risks, the Government highlights Internet resources also commonly used by professionals and containing information on occupational health risks for pregnant women. There are also toolkits developed concerning risks in pregnancy by type of work and also

containing communication plans for family doctors, midwives and gynaecologists. The Committee understands that on-the-job risk evaluation needs to be carried out by each employer individually, to take into account the nature of the occupations existing within the enterprise. ***Please indicate whether the trade unions within the enterprise or the work council (Ondernemingsraad) are consulted or associated in this evaluation process.*** The Committee further notes that, pursuant to section 1.42, if an employee's work presents a risk to her health that cannot be avoided through a change in her working conditions or hours, or if she cannot be temporarily transferred to another position, she is exempt from her duties while the risk persists. ***Please indicate whether such leave is paid or gives entitlement to income replacement benefits from social insurance.***

Night work. The Committee notes that, according to the Working Hours Act of 1995, as amended, pregnant women cannot in principle be required to carry out night work unless their employer gives "convincing reasons" whereby it cannot reasonably be expected to adapt the employee's work (section 4:5, paragraph 5). ***Please indicate what may constitute "convincing reasons" in this case and indicate whether, for medical reasons, a pregnant employee may request to be exempted from night work in accordance with section 1.42 mentioned above. Please indicate whether there exists a special provision regulating night work by workers who breastfeed their child.***

Article 9(1). Discrimination in employment, including access to employment. The Government indicates that the Netherlands Institute for Human Rights (previously Equal Treatment Commission) published the report undertaken in 2011 to examine the impact of pregnancy or parenthood on women's employment opportunities. According to the findings of this report, certain categories of employees are more at risk than others of becoming victims of discrimination on the grounds of pregnancy or maternity in employment or access to employment: women in lower paid jobs and temporary assignments; women employees in the private sector; women who often fall sick during their pregnancy or suffer complications related to pregnancy or childbirth; and also women in managerial positions. The two main recommendations to the Government were to inform women and employers of their rights and obligations during pregnancy and maternity to allow them to better identify discriminatory practices and provide information on how to file complaints. Following up on these recommendations, the Government regrouped on one website the information regarding the rights of women at work during pregnancy, maternity leave and the period following their return to work. The Human Rights Institute also provides on its website information regarding the filing of complaints. In comments received in August 2013, the Netherlands Trade Union Confederation (FNV) considered that, in spite of the above measures, the problems related to maternity protection are increasing, as well as the number of temporary contracts, with many women still experiencing problems of recruitment or of losing their jobs when they become pregnant as their contracts are not renewed in this case. ***The Committee asks the Government to consider assessing the impact of the measures taken together with the social partners in order to more effectively tackle the problems of application in practice the prohibition of discrimination based on maternity.***

4. EU Country-Specific Recommendations: 2015

(the numeration of comments is kept in accordance to the original)

The European Union has set up a yearly cycle of economic policy coordination called the European Semester in 2010. Under the European Semester, the European Commission was given a mandate by Member States to check whether they take action on reform commitments they have made at EU level. The European Semester starts when the Commission adopts its Annual Growth Survey which sets out EU priorities to boost job creation and growth for the next year.

Each year, the Commission undertakes a detailed analysis of EU Member States' plans of budgetary, macroeconomic and structural reforms and provides them with the country-specific recommendations basing its decision on the submitted by each country National Reform Programme and Stability Programme. These recommendations provide tailor-made policy advice to Member States in areas deemed as priorities for the next 12-18 months. The European Council endorses the recommendations after the discussion.

Where recommendations are not acted on within the given time-frame, policy warnings can be issued. There is also the option of enforcement through incentives and sanctions in the case of excessive macroeconomic and budgetary imbalances.

Council Recommendation of 14 July 2015 on the 2015 National Reform Programme of the Netherlands and delivering a Council opinion on the 2015 Stability Programme of the Netherlands (2015/C 272/22), (18.08.2015, C 272/83, *Official Journal of the European Union*)

[Official Website of the European Commission](#)

(6) On 26 February 2015, the Commission published its 2015 country report for the Netherlands. This assessed the Netherlands' progress in addressing the country-specific recommendations adopted on 8 July 2014. The country report also includes the results of the in-depth review under Article 5 of Regulation (EU) No 1176/2011. The Commission's analysis leads it to conclude that the Netherlands is experiencing macroeconomic imbalances, which require policy action and monitoring. Risks stemming from the high level of private debt persist and merit attention, even if recent measures support a recovery in the housing market and will help to curb mortgage growth. While the high current account surplus partly reflects structural features of the economy, the structure of the pension and tax systems may potentially be a source of inefficient allocation of capital.

(9) A key challenge lies in the housing market, where rigidities and distortive incentives that have built up over decades shape house financing and sectoral savings patterns. Households' tendency to leverage up gross mortgage debt against housing wealth largely reflects long-standing fiscal incentives, in particular the full tax deductibility of mortgage interest. Since 2012, a series of measures have been implemented to partly address these incentives. Some of these involve adjustments to the fiscal treatment of housing finance. The gradual move to limit mortgage interest tax deductibility and increase the incentive to amortise is warranted. However, this measure could be phased in at a higher pace to influence amortising behaviour more. A sizeable tax incentive to invest in unproductive assets will persist. The loan-to-value ratio of 100 %, to be reached in 2018, is still high. The rental market is constrained by regulation and the existence of a very large social housing sector that also has to cope with long waiting lists. The introduction of

more income-based rent differentiation in the social housing sector is a step in the right direction, but its impact is limited. Under a new law, housing corporations will have to separate activities of general economic interest (i.e. social housing) from other activities. It remains to be seen whether this leads to the intended redirection of social housing towards people in need and ensures that social housing is available to disadvantaged people unable to obtain housing at market conditions.

(10) The long-term sustainability of the pension system has been improved. In addition to gradually increasing the first-pillar statutory retirement age from 65 years in 2012 to 67 years in 2021 and linking it to life expectancy thereafter, the Netherlands has adopted comprehensive reforms of the privately funded pillar of the pension system and in the long-term care system. The financial supervision of pension funds has been improved and the system made more resilient to financial shocks. This has been complemented by successful reforms encouraging older workers to work longer. Long-term care reforms have shifted responsibilities to municipalities, bringing a reduction in overall expenditure and a focus on efficiency gains. The quality and accessibility of long-term care needs to be monitored.

(12) The comprehensive reform of employment protection legislation enacted in 2014 aims to increase labour market participation and mobility. Fiscal disincentives to work have been reduced. Legislation adopted by the Parliament has introduced the possibility to activate a quota, in case employers fail to deliver the extra jobs for people with disabilities that they committed themselves to. The impact of these measures can only be fully assessed once implemented. Further measures are needed to improve the integration of people on the margins of the labour market, including those with a migrant background.

HEREBY RECOMMENDS that the Netherlands take action in 2015 and 2016 to:

3. Reduce the level of contributions to the second pillar of the pension system for those in the early years of working life.

