

Petition to the Council of Ministers of Sint Maarten

Stop Human Rights discrimination in the Dutch Kingdom

The Sint Maarten Seniors and Pensioners Association [abbreviated the SMSPA] on this day June 9th, 2011, in its meeting with the Council of Ministers of Country Sint Maarten, wants to inform and discuss the following:

- how to stop the human rights discrimination in the Kingdom of the Netherlands and in particular here in Sint Maarten and
- how to prevent the violation of human rights from elderly and the elder abuse in Sint Maarten.

Considering that:

- The violation of human rights is one of the forms of elderly abuse that is being addressed in the world wide awareness campaign to prevent elderly abuse which is being commemorated annually on June 15.
- That human rights violations is one of the systematic, collective forms of elder abuse that seniors in the world and in particular in Sint Maarten are experiencing.
- The United Nations International Plan of Action adopted by all countries in Madrid, April 2002, clearly recognises the importance of Elder Abuse and puts it in the framework of the Universal Human Rights. One of the main objectives of the Madrid International Action Plan on Aging is the realization of all human rights for seniors around the world before 2012
- Preventing elder abuse in an ageing world is everybody's business and so also from the people of Sint Maarten and their elected members of Parliament.
- According to the definition of the WHO elderly abuse consists of a single repeated act or lack of appropriate action which causes an older person harm, distress , suffering.
- On March 29, 2011the Sint Maarten Seniors and Pensioners Association has informed the Central Committee of Parliament, about ongoing discrimination and violation of fundamental human rights by the government of the Kingdom of the Netherlands in the Caribbean part of the Kingdom of the Netherlands, in her presentation in Parliament titled: "Eradicate poverty, equal old age pensions and free health care for all 60+"
- the Kingdom Government in 1979 ratified the International Convention on Economic, Social and Cultural Rights, which in art 2 obliges the Kingdom Government as a state party bound to the Convention, to ensure without any form of discrimination, the social, economic and cultural rights of every person within the Kingdom,

VIOLATION RIGHT TO ADEQUATE STANDARD OF LIVING

- for more than a decade pensioners organizations in the former Netherlands Antilles Curacao have drawn the attention of the Kingdom Government, to the discriminatory manner, in which the right to a socially acceptable old age pension is guaranteed within the Kingdom of the Netherlands.
- The maximum old age pension in Sint Maarten of Ang 829 (=US\$ 460.56) and the average old age pension of ANG 550 (=US 305.56) is far below the old age pension maximum of 1035 Euro (= US\$ 1.367) in the Netherlands, (which is also the case in the other parts of the Dutch Caribbean)
- Worse the maximum old age pensions in the Caribbean part of the Kingdom of the Netherlands are 64% under the poverty norm definition of the European Union which is 960 Euro (=US\$ 1268) or ANG 2282 (60% of the median income in the Kingdom of the Netherlands)
- Freedom from Poverty is a fundamental freedom and poverty is a violation of the fundamental right to an adequate standard of living for the health and wellbeing of oneself and ones family (article 25 of the Universal Declaration of Human rights)
- Consequently the unequal poverty pensions in the Kingdom of the Netherlands are a violation of the right to an adequate standard of living, the right to an acceptable old age pension and a violation of the non-discrimination principle by the State party the Kingdom of the Netherlands.
- Although last year 2010 was the year to combat poverty and exclusion of European citizens, the Kingdom government has not eliminated the poverty pensions in the Kingdom of the Netherlands among the European union pasport bearers in the Dutch Caribbean.

VIOLATION RIGHT TO HEALTH CARE

- The discriminatory health care insurance packages and the refusal of doctor cards of seniors (FZOG-cards and BZV-pp-cards) by health care providers in Sint Maarten on a few occasions has caused for a lot of seniors emotional stress, neglect and violation of their right to health care.
- the health care quality and the sickness insurance packages in Sint Maarten are far below the health care quality and sickness insurance system in the Netherlands, (as is also the case in the other parts of the Dutch Caribbean)
- the health care system in the Netherlands, according to a recent study of the Commonwealth Fund, is the nr 1 health care system in the world, but this quality has not been realized as yet in the Caribbean part of the Kingdom of the Netherlands,
- In fact quite a majority of persons in the Caribbean part of the Kingdom of the Netherlands are excluded from quality health care, which can also be defined

as part of the poverty situation among citizens with a European Union Dutch passport in the Dutch Caribbean,

- The right to the highest attainable level of health care (art 12 of the International Covenant on Economic, Social and Cultural Rights) is a fundamental right. A lower level than the highest attainable level is a violation of the fundamental right to an adequate standard of living for the health and wellbeing of oneself and ones family (article 25 of the Universal Declaration of Human rights),
- Consequently the unequal lower level health care systems in the Caribbean part of the Kingdom of the Netherlands are a violation of the right to an adequate standard of living, the right to the highest attainable level of health care and a violation of the non-discrimination principle by the State party the Kingdom of the Netherlands,
- Although last year 2010 was the year to combat poverty and exclusion of European Union citizens, the Kingdom government has not eliminated the discriminatory health care level and sickness insurance systems in the Caribbean part of the Kingdom of the Netherlands among European Union citizens in the Dutch Caribbean,

KINGDOM GOVERNMENT GUARANTEE AND OBLIGATION

- That in the former Netherlands Antilles since 2000 the Federation of Ex-Shell Pensioners of Curacao (the FEPESCU) and the Confederation of Pensioners and Older Persons of Curacao (the KOPAMKO) since 2007 have repeatedly reminded the Kingdom Government of the obligation of the Kingdom Government to guarantee the fundamental rights and freedoms according to the Charter of the Kingdom of the Netherlands under the second paragraph of Article 43, paragraph 2 and Article 51,
- According to Art 28 of the International Convention on Economic, Social and Cultural Rights and Article 29 of the Vienna Treaty of the Law on Conventions guaranteeing a non-discriminatory application throughout the State party of these social securities and rights in the International Convention on Economic, Social and Cultural Rights is a matter of the Kingdom Government. This also must be guaranteed in Country Sint Maarten and the other Dutch Caribbean constitutional entities, without restrictions and exceptions, in its entirety,
- Since the ratification of the International Convention on Economic, Social and Cultural Rights in 1979 by the State party the Kingdom of the Netherlands, according to art 2-1 of the Convention, the Kingdom Government has failed to use all the means available to guarantee the full realization of the rights recognized in the Convention in the entire Kingdom including in Country Sint Maarten,
- The UN Commission for Economic, Social and Cultural Rights has questioned the Kingdom Government as state party to the Convention since June 16, 1998

in *Art 21 of her Concluding observations for the Netherlands*, and has urged the Kingdom Government to ensure that the Kingdom Government fulfills its obligations under the Convention completely on Aruba, Curacao and the other constitutional entities of the former Netherlands Antilles,

- The UN Commission for Economic, Social and Cultural Rights in 1998 has urged the Kingdom government that all rights in the convention should be equally realized, that is without discrimination, without limitations or exceptions, in all parts of the Kingdom of the Netherlands. Until present this has not been executed,
- The Committee on Economic, Social and Cultural Rights in may 2007 had considered the third periodic report of the Kingdom of the Netherlands concerning the Netherlands Antilles on the implementation of the International Covenant on Economic, Social and Cultural Rights. The Committee noted with concern that the various authorities of the Netherlands Antilles were not fully aware of the importance of the international obligations arising from the Covenant.
- The Committee regretted that little progress had been made with regards to the direct applicability of the rights set out in the Covenant. It took note of the information that these rights may only be applied directly by the national courts to the extent that the courts deem such application to be possible. The Committee expressed her concern that the State party thus considers that most economic, social and cultural rights are not directly applicable.

ACTION REQUESTED FROM COUNCIL OF MINISTERS

The Sint Maarten Seniors and Pensioners Association therefore requests the Council of Ministers of Country Sint Maarten as representatives of the interests of the people, the seniors and the pensioners of Sint Maarten to resolve the following:

- to denounce the ongoing (neo)colonialism of the Dutch Kingdom government in the Caribbean and the discriminatory development policy executed for more than three centuries in the Caribbean part of the Kingdom of the Netherlands,
- To denounce the unequal implementation of the right to development of the people in the Dutch Caribbean and of the people of Sint Maarten in particular, which is still lagging behind compared to the development of the people of the Netherlands the Dutch territory in Europe,
- To discuss through the Minister Plenipotenciary in The Hague the human rights deficit in the Kingdom of the Netherlands implemented in the Caribbean part of the Kingdom and in Sint Maarten in particular in the Kingdom Government Council of Ministers Meeting so that we can get equal rights throughout the Kingdom.

CONCERNING OLD AGE PENSIONS

- to condemn the stubborn attitude of the Kingdom Government to refuse the equal implementation of the old age pensions in the Kingdom of the Netherlands
- to urge the Kingdom government to urgently eliminate the inequality in the old age pension of elderly in the Caribbean part of the Kingdom as compared to the European part without any exception and without any more delay as of January 1, 2012 as requested by SMSPA.
- To urge the Kingdom of the Netherlands to bring the old age pensions in Sint Maarten and the rest of the Dutch Caribbean to the same level as in the European part of the Kingdom (1034 Euro pp/pm), without any limitation or exception and to supplement the old age pensions in country Sint Maarten and in the whole Caribbean part of the Kingdom of the Netherlands.
- To urge the Kingdom government to deposit the funds to supplement the old age pensions with retroactive force at the Social Insurance Bank of Curacao, (and at the ones from the other territories of the Dutch Caribbean) and to guarantee the future pension payment obligations, the real difference at actual market prices, accumulated with the legal interest or the legal return on investment that the SVB could not gain since 1979.
- To support the Government of Sint Maarten (of Aruba, Curacao and of the special entities Bonaire, Saba and St Eustatius) in their legitimate demands of the Kingdom Government to supplement the old age pensions and to guarantee a non-discriminatory old age pension of 1000 Euro for all as in the European part of the Kingdom.

CONCERNING HEALTH CARE

- to condemn the stubborn attitude of the Kingdom Government and the refusal to implement an equal health care level and health care reform in the Kingdom of the Netherlands, in the Dutch Caribbean and in Sint Maarten in particular.
- to urge the Kingdom government to eliminate the inequality in health care quality and health care insurance systems in the Caribbean part of the Kingdom as compared to the European part, without any exception and without any more delay as of January 1, 2012 as is also the desire of the government of Sint Maarten, of social organizations in Sint Maarten and of the Sint Maarten Seniors and Pensioners Association.
- To urge the Kingdom government to support the government of Sint Maarten with all means available to bring the health care system in Sint Maarten and in the rest of the Dutch Caribbean to the same level as in the European part of the Kingdom (the nr 1 level in the world), without any limitation or exception, and to supplement the financing of the health care infrastructure and sickness insurance system in country Sint Maarten and in the Caribbean part of the Kingdom of the Netherlands as a whole.

- To urge the Kingdom government to deposit the funds to supplement the sickness insurance fund (ZV/OV) and the general chronic disease fund (AVBZ) in Country Sint Maarten with retroactive force, (evenso the insurance funds from the other territories of the Dutch Caribbean) as to guarantee the highest attainable level of health care and health financing obligations for all citizens throughout the Kingdom of the Netherlands. (The real supplement should be at actual market prices accumulated with the legal interest or the legal return on investment that the SZV/SVB could not gain since 1979).
- To support the Government of Country Sint Maarten (of Country Aruba, Country Curacao, and of the special entities Bonaire, Saba and St Eustatius) in their legitimate demands of the Kingdom Government to supplement the sickness insurance funds and to guarantee the nr 1 health care system of the world on a non-discriminatory basis in the Caribbean part of the Kingdom of the Netherlands, as in the European part of the Kingdom.

Philipsburg, Sint Maarten,
June 9, 2011

cc.

Government of the Kingdom of the Netherlands

Government and Parliament of Country the Netherlands

Government and Parliament of Country Curacao

Government and Parliament of Country Aruba

Government and Parliament of Country Sint Maarten

Island Council and the Executive Council of Special Municipality of the Netherlands: Bonaire

Island Council and the Executive Council of Special Municipality of the Netherlands: Sint Eustatius

Island Council and the Executive Council of Special Municipality of the Netherlands: Saba

The PARLATINO

The PAHO

The UN Commission on Social, Economic and Cultural Rights

The Confederacion Latinoamericano de Trabajadores Jubilados, Pensionados y Adultos Mayores (CLATJUP)

The Federación Europea y Jubilados de Personas Mayores (FERPA)

The Central Sindical Internacional (CSI)

The Confederation of Pensioners and Older Persons of Curacao (KOPAMKO)

The Sint Maarten Seniors and Pensioners Association (SMSPA)