

**Implementation of the Convention on the Elimination of All Forms of
Racial Discrimination**

seventeenth and eighteenth report

THE NETHERLANDS (EUROPEAN PART OF THE KINGDOM)

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I. INTRODUCTION

1. In pursuance of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter 'the Convention'), the present report by the Netherlands is submitted in accordance with the General Guidelines adopted in 1980 by the Committee on the Elimination of Racial Discrimination, as revised at its 984th meeting, on 19 March 1993. For the principal demographic, economic and social indicators and a description of the Kingdom's constitutional system, see the core documents for the Kingdom of the Netherlands (HRI/CORE/1/Add.66, 67 and 68). This, the consolidated seventeenth and eighteenth report, covers the period July 2002 up to December 2006 and follows on from the consolidated fifteenth and sixteenth periodic report which was submitted to the Committee in June 2003 and covered the period up to June 2002.

2. This report is structured around a number of responses to the concluding observations made by the Committee (CERD/C/64/CO/7) in May 2004 after examining the fifteenth and sixteenth reports. The articles regarding major developments under the period of examination are supplemented with additional information. Issues dealt with under the previous period are not mentioned again.

3. The Kingdom of the Netherlands has three constituent parts: the European part, the Netherlands Antilles and Aruba. Each part is responsible for implementing the provisions of the Convention and reporting on implementation. This report covers the European part of the Kingdom only. The reports by the Netherlands Antilles and Aruba will be submitted at a later stage.

II. RESPONSES TO THE CONCLUDING OBSERVATIONS OF THE COMMITTEE

4. In its concluding observations dated 10 May 2004 (CERD/C/64/CO/7), the Committee expressed its concerns and gave recommendations on a number of subjects, to be dealt with under this heading.

A. RACIST AND XENOPHOBIC INCIDENTS (concl. obs. no. 10)

Integration policy and promotion of general awareness

5. In the aftermath of the murder of the filmmaker Theo van Gogh on 2 November 2004 social tensions arose between the indigenous Dutch population and ethnic minority groups, resulting in a rise in racist and xenophobic incidents. Many policy measures have been taken to address this situation and improve mutual understanding between the groups. The measures which have proved successful include:

- frequent consultation of the numerous representative bodies of ethnic minority groups, brought together in the National Ethnic Minorities Consultative Committee (LOM) by the Dutch government;
- regular meetings of the Minister for Housing, Communities and Integration with two Islamic umbrella organisations. These are grouped in the Enquiries Desk for Muslims and Government (CGO) and the Islam Contact Group (CGI);
- policies to strengthen ethnic minorities' resilience;
- the Social Cohesion Initiative. After the murder of Van Gogh, the Dutch government held a number of meetings with a wide range of participants, from major civil society organisations to members of the general public;
- the '& Campaign'. Launched by the former minister for immigration and integration, it highlights positive examples of interaction between the indigenous population and minority groups in the media, to make the two groups more well disposed towards each other;
- two antidiscrimination campaigns (Discrimination? Call now!) and (Discrimination? Not against me!), intended to raise awareness of the right to equal treatment and of discrimination in general. See article 5 for more on these campaigns.

These measures have been successful, since in 2005 and 2006 the number of incidents has shown a consequent decrease.

6. The Dutch government believes that a national network of easily accessible and professional Antidiscrimination Bureaus (ADBs) is necessary to combat discrimination properly and has therefore taken a number of measures in recent years. These include draft legislation, due to enter into force on 1 January 2009, which will make central and local government jointly responsible for antidiscrimination efforts and will oblige all local authorities to provide readily

accessible antidiscrimination services for local residents. They will receive central funding for this purpose. See also below under 'Infrastructure Antidiscrimination Bureaus'.

Monitoring and Combating Racism

7. The Dutch government believes that in order to combat racism and discrimination it is necessary to have a good understanding of the issue. A proper national registration and monitoring system is essential. Rapid progress is being made in this area.

8. Various monitors are published, giving insight into the scale and nature of discrimination. The Dutch Equal Treatment Commission (CGB) produces an annual publication entitled 'Equal treatment: opinions and comments The Racial Discrimination Monitor, which appears every few years, will be published again in 2009 by order of the Minister for Housing, Communities and Integration. The first edition was published in 2006, and incorporated the first representative Dutch survey of experiences of discrimination. A supplementary publication, dealing with discrimination in the labour market, is currently being prepared at the request of the Ministry of Social Affairs. The Anne Frank Foundation works with the University of Leiden to produce a national Monitor on Racism and Extremism.

9. As stated above, efforts are currently being made to establish a national network of antidiscrimination services whose most important task will be to register complaints. Art. 1, the national anti-discrimination organisation, registers complaints submitted to local antidiscrimination bureaus and publishes an annual report. The National Bureau is currently trying to improve the registration of complaints in order to obtain a better picture of the scale of discrimination and to produce more efficient, reliable and comparable data. The police are also working to improve registration, particularly of offences with a discriminatory component. A particularly important goal, in this regard, is the creation of comparable records. The legislation establishing antidiscrimination services is focused on improving registration and on increasing insight into the scale of discrimination, at both local and national level, with an eye to international obligations.

B. DISCRIMINATION ON THE INTERNET (concl. obs. no. 11)

10. The Dutch government shares the Committee's concern about the dissemination of racial and discriminatory material via the internet. The large number of complaints submitted to the Dutch Internet Discrimination Hotline (MDI) can in part be attributed to the general rise in internet usage and awareness of the MDI's existence, and in part to the fact that as a relatively anonymous medium the internet provides a forum for many racists and racist groups.

11. The period shortly after Van Gogh's murder in November 2004 saw a wave of hate utterances on the internet. They were posted both by those who felt that the rise of Islam should be halted, and those who expressed joy at the murder and were glad that the jihad in the Netherlands had begun.

12. The MDI's annual report for 2005 registered 1289 postings expressing discrimination. Much of the discriminatory material reported to the MDI was posted on interactive websites like web fora and weblogs, most of them in Dutch. The exact number of racist websites and news groups is unknown.

13. With regard to the groups targeted, there was a notable rise in utterances directed against Muslims, and for the first time in the MDI's history, Muslims became the most hated category (371 utterances). But there was also an increase in the number of expressions of hatred involving general terms like 'foreigner' and 'immigrant' and in anti-African (175) and anti-Moroccan postings (186). There was a slight rise in the number of discriminatory utterances against Turks. At the same time, 2005 saw a drop in the number of anti-Semitic utterances (302) and, to a lesser extent, in discriminatory postings about the ethnic Dutch (38).

14. In 2005, the percentage of offensive postings which were removed in response to requests for removal by the MDI is 96. This high percentage and the fact that site managers removed a great deal of offensive material before it was noticed by the MDI (14% of the total) indicates a high level of commitment to keep websites free of discriminatory material. In 2005 the MDI reported seven cases to the police.

15. Following consultations between the MDI, the Public Prosecution Service's National Discrimination Expertise Centre (OM-LECD) and the police's National Bureau for Discrimination

Cases (LBD), the participating institutions concluded further agreements on monitoring and processing cases of online discrimination.

16. To promote efforts to combat discrimination on the internet, the MDI held three successful workshops in 2005, involving around 700 Amsterdam police officers and assistant public prosecutors. At the request of OM-LECD, it also provided a presentation at the national meeting of public prosecutors responsible for dealing with cases of discrimination.

17. In 2006, action using the criminal law to combat internet discrimination was stepped up. Three of the cases reported to the police by the MDI, including the 'Housewitz' video clip posted in 2005 and a case against a purportedly satirical website that contained offensive utterances directed against Jews and homosexuals have resulted in convictions. See also '*A summary of judgments in discrimination cases from 2002 to 2007*' under article 4, below.

18. The government is continuing efforts to tackle online discrimination, and has increased the MDI's funding for the year 2007. Plans are also afoot to set up a National Cybercrime Reporting Centre. It will primarily target extremist and terrorist utterances, by responding to reports from members of the public as well as actively monitoring the internet. When deemed necessary, it will pass on information to the appropriate authorities, e.g. the Public Prosecution Service, the police, and the General Intelligence and Security Service.

19. In addition, the Dutch government believes that an international approach is needed to combat racism on the internet. On 16 November 2006, the Netherlands ratified the Convention on Cybercrime of the Council of Europe, which entered into force for the Netherlands on 1 March 2007. At the time of reporting, the Netherlands have not yet ratified the Additional Protocol, concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.

C. RACIAL SEGREGATION (concl. obs. no. 12)

Citizenship and integration

20. Certain neighbourhoods which have a high concentration of immigrants (including second or third-generation immigrants) are also high-problem areas, that is to say they have high unemployment rates, a high rate of school drop-out, inappropriate use of public spaces,

high crime rates, etc.. There is no clear evidence whether ethnic origin per se is the cause of these problems, or whether they are connected to the low socioeconomic status of immigrants. However, the Dutch government does feel that such neighbourhoods would benefit from a more varied mix of residents. A mix, in this sense, involves both ethnic variety and differences in socioeconomic status. Most of these problematic neighbourhoods are in big cities. They have a high concentration of ethnic minority groups with low average incomes, living in low-rent, predominantly social rental housing.

21. The Dutch government is endeavouring to counter the one-sided composition of such districts by providing different types of housing, some aimed at the higher income brackets. The reasoning is that a varied housing stock makes for a more varied and, ultimately, 'better' neighbourhood. Young people benefit from the presence of positive role models, the social fabric improves when residents participate in social activities, and higher incomes boost local economic activity. This can have a trickle-down effect, improving living standards for groups with a below-average income.

22. In February 2007, the new government appointed a minister with a new portfolio: Housing, Communities and Integration. The new minister, Ms Ella Vogelaar, has indicated that during her term of office she will mainly focus on 40 designated problem districts in the Netherlands. She will maintain constant dialogue with the municipalities concerned in an effort to improve living standards in these areas, as well as to promote employment, raise the standard of education, increase security and encourage integration.

23. Lastly, concrete measures have also been taken to counter spatial segregation in the field of housing and to promote quality of life in certain urban areas. The Urban Areas (Special Measures) Act – also known as the Rotterdam Act, as this was the first city to introduce this measure – allows local authorities to impose income requirements on housing in neighbourhoods where social policy is no longer considered adequate to guarantee an improvement in the quality of life. This means that accommodation seekers coming from outside the city, who are not generating any income from employment – i.e. social security claimants – can be prevented (on a temporary basis) from settling in those neighbourhoods. This gives local authorities a chance to counter the social problems in the neighbourhoods and to break the vicious circle. Most other cities adopt a different approach aimed at persuading higher-income

residents to settle in problem neighbourhoods through the inducement of high-quality housing, rather than barring lower-income residents from access to the housing stock.

Citizenship and integration at schools

24. 1 February 2006 saw the entry into force of legislation requiring schools to promote 'active citizenship and social integration' among their pupils. It underlines the fact that the promotion of citizenship and integration needs to be actively targeted by schools. Many schools approach the issue in different ways, with factors such as pupils' individual situations, the wishes of parents/carers and other concerned parties, and schools' own mission playing a role. At the request of the education minister, the Education Inspectorate will monitor compliance with this statutory requirement from 1 October 2006. The expectation is that experience in the coming years will lead to identification of best practices, enabling teaching to be further developed. Monitoring authorities will tie in with this process, in close consultation with schools and civil society.

25. As far as educational provision is concerned, the Education Inspectorate determines whether a school's curriculum:

- constitutes compliance with the requirement to help pupils acquire competences that promote active citizenship and social integration;
- ensures that pupils are familiar with and find out about the different backgrounds and cultures of their peers;
- assumes that pupils grow up in a diverse society, and gives shape to the attainment targets that are relevant in this context.

The schools are responsible for providing education of a satisfactory quality, geared to promoting social integration and active citizenship, including the transfer of knowledge about and acquaintance with social diversity. Where the quality of teaching is concerned, the Education Inspectorate establishes whether schools are complying with the requirement to account for their way of approaching and carrying out this task in the school plan and the school prospectus. Schools also need to be aware of the results of their teaching, and to tailor it to specific circumstances in and around the school that are relevant to integration and citizenship, perhaps in adverse ways.

Measures aimed at training teachers to teach in a multicultural setting and to respond adequately to racism in schools, and at promoting expertise among such teachers

26. Teachers are not specifically trained to deal with discrimination, though they are required to create a harmonious atmosphere in which everyone is treated with dignity. This is laid down in the standards of competence on which teacher training is based. One of the important competencies specified in the legislation regulating such standards is the ability to establish a safe and harmonious atmosphere in which pupils can learn and develop, and to assist children in their social, emotional and moral development.

Human rights education in primary and secondary education

27. Schools are free to organise their own teaching as long as it meets the requirements attached to the attainment targets. A number of attainment targets require schools to pay structural attention to citizenship, under which information about human rights falls (attainment targets for the lower forms of secondary school). The attainment targets for primary schools and the lower forms of secondary schools devote a great deal of attention to curbing racism and intolerance. The relevant targets for secondary schools are:

- Attainment target 47. Pupils learn to relate current world tensions and conflicts to their own background, thus discovering the impact of current events on individuals and society (national, European and global), the great extent to which countries are interdependent, the importance of human rights and the significance of international cooperation.
- Attainment target 34. Pupils learn the basic principles of the structure and function of the human body, to make the connection to the promotion of physical and mental health, and to take responsibility for their own health.
- Attainment target 35. Pupils learn about care. They learn to care for themselves, others and their surroundings, and how they can promote their own safety and that of others in various different situations (home, school, work, leisure, roads).
- Attainment target 36. Pupils learn to ask meaningful questions about social issues and phenomena, to adopt a reasoned stance on them and to defend their arguments, as well as to deal with criticism respectfully.
- Attainment target 38. Pupils learn to use a contemporary understanding of their own environment, the Netherlands, Europe and the world to interpret phenomena and developments in their surroundings.
- Attainment target 43. Pupils learn about similarities, differences and changes regarding cultures and ideologies in the Netherlands, to relate their own way of

life and that of others to these concepts, and to appreciate the social significance of mutual respect for different notions and ways of life.

Measures to curb educational segregation

28. In urban neighbourhoods with a high proportion of ethnic minority residents, schools naturally tend to have a relatively high proportion of ethnic minority pupils. The Dutch education ministry seeks to curb educational segregation, but parents are free to choose their child's school and privately-run schools (as opposed to public-authority schools) are not obliged to accept pupils. As of the 2006-2007 school year, local authorities and school boards will be statutorily obliged to meet at least once a year to discuss ways of preventing segregation and promoting integration in primary and secondary schools. The Education Inspectorate ensures that schools play their part. Local authorities, schools and parents are helped to put policy into practice. A Mixed Schools Knowledge Centre, charged with combating educational segregation has been set up with the aid of local authorities. Its tasks include commissioning research and exchanging best practices. Set application dates for schools will also be introduced, so that parents cannot gain an unfair advantage by registering their children for popular primary schools well in advance.

Equal opportunities in primary and secondary education

29. Children can attend primary school from the age of four. Their levels of development vary; many ethnic minority pupils lag behind in terms of language skills. To tackle this problem, special programmes have been developed at the preschool stage – for playgroups and childcare centres – to help children develop Dutch language skills. Primary schools with a high proportion of disadvantaged pupils (relatively many of whom are ethnic minority pupils) receive extra resources to tackle such disadvantage. The indicator for allocating such resources is the level of education of a pupil's parents. Schools with high concentrations of disadvantaged pupils can obtain up to an additional 80% of their regular budget. Local authorities are also given resources to set up bridging classes providing extra language lessons in mainstream schools.

30. The aim of secondary education is to enable every pupil, irrespective of their background, to develop to the full and to receive education that is appropriate to their needs. The policy on care and disadvantage is to remove any obstacles to this goal. Central government has invested in support advisory teams (ZATs) in which a number of organisations work together to identify and combat pupils' problems at the earliest possible stage. Most schools now have their own

ZAT. On 1 January 2007, a new policy to combat disadvantage in secondary schools entered into force. Its main aim is to ensure that resources go to schools that need them most. These are schools with cumulative problems, i.e. they struggle not only with educational disadvantage, but also with other problems such as truancy, pupils repeating classes, youth care problems, crime and dropout. The policy applies to all secondary schools, irrespective of type. The extra resources are spent on tailor-made approaches and on individual pupils, optimising pupil performance through intensive programmes to promote language skills, and preventing dropout.

31. Separate funding is also available for pupils who enter secondary school after having spent less than two years in the Netherlands. The aim is to equip them as soon as possible with the Dutch language skills they need to enter mainstream education.

New government's plans to tackle school dropout

32. In April 2006, the education ministry published a policy document announcing a package of extra measures to tackle dropout. This is primarily to be achieved by identifying and tackling language and learning deficiencies as early as possible and to ensure that transitions in pupils' school careers are as smooth as possible. Other effective measures include enforcing and prolonging school attendance, and enabling young people to gain basic qualifications through a combination of school and practical training in the workplace.

The most important measures are:

- a bill proposing compulsory school attendance for all pupils up to 18 years until they attain a basic qualification;
- the development of a legal framework empowering municipalities to compel young people without a basic qualification aged 18 to 23 to follow a programme combining study and work;
- agreements between the education ministry and the 14 local authorities with the highest level of school dropout aimed at reducing dropout in these regions at the end of the 2006/2007 school year by at least 10% compared with the 2004/2005 school year;
- promoting support advisory teams (ZATs). This entails both reinforcing internal support services at schools and working together with external partners. The most important measures are aimed at strengthening services for pupils with special needs at levels 1-2 of secondary vocational education (MBO) and giving shape to ZATs within MBO. To this end, the MBO budget has been permanently increased to provide for support on a systematic basis.

D. EMPLOYMENT OF MINORITIES (concl. obs. no. 13)

Employment of Minorities (Promotion) Act

33. Under the Employment of Minorities (Promotion) Act (*Wet SAMEN*), all companies with more than 35 employees were required to report on the number of ethnic minority people in their employment (relative to the regional target figures) and on the policy conducted by the company to achieve proportionality under the Act. Although the number of companies that submitted an annual report under the Act increased annually, full compliance was never achieved. The Employment of Minorities (Promotion) Act was initially introduced on a temporary basis. After being extended for two years in 2002, it was repealed in 2004. It did, however, engender various activities, which are being developed within the National Diversity Management Network (DIV). Through the DIV, the government provides support for employers in conducting their diversity policy. The DIV is a proactive knowledge centre that stimulates diversity management and acts as a forum for pooling the knowledge, skills and experience that exist in various places within the network on both the supply and the demand side. The knowledge acquired in recent years from implementing various projects relating to diversity policy will thus be maintained, augmented and applied in practice.

Measures/activities aimed at improving the position of ethnic minorities in the labour market

34. The Ministry of Social Affairs and Employment is undertaking various activities aimed at improving the labour market status of ethnic minorities. These include generic activities from which ethnic minorities – like other groups – benefit proportionally, as well as activities specifically tailored to ethnic minorities. An effort is being made to combat negative perceptions and discrimination in relation to ethnic minority jobseekers and, where necessary, supplementary policies of a specific nature are implemented on a temporary basis.

35. As part of the Social Cohesion Initiative, the government has entered into agreements with the social partners, benefits agencies, the Association of Netherlands Municipalities (VNG), ethnic minority organisations and other civil society organisations concerning a joint approach aimed at improving the position of ethnic minorities in the labour market. Ten projects have already been launched, one of which is the Job Offensive for Refugees. The Dutch Council for Refugees, together with the Foundation for Refugee Students UAF, Emplooi and the Centre for

Work and Income (CWI), launched a joint employment offensive for refugees, setting themselves the target of finding jobs for 2,600 refugees within three and a half years.

E. ALIENS ACT 2000 (concl. obs. no. 14)

Relevant changes in legislation since the previous report

36. With regard to section 21 of the combined 15th/16th report (CERD/C/452/Add.3), it should be noted that as of 1 September 2004 holders of temporary asylum residence permits can request that their permit is converted into a permanent asylum permit after a period of five years. Before this date, such a request could be made after three years. This new period enables the Dutch government to reach a more considered assessment of whether the situation in the country of origin is still such that nationals of that country need to rely on permanent residence in the Netherlands. It is also more in line with the situation in neighbouring countries.

37. With regard to sections 31 and 32 of the previous report, the following should be noted: foreign minors who have remained in the country of origin qualify for a regular residence permit to join their biological or legal parent(s) in the Netherlands, providing that the latter is/are (a) legal resident(s), they have sufficient means of support, and that the existence of a family-law relationship has been satisfactorily demonstrated. A further statutory obligation is that the minor in question must factually form part of the parental household. In the past this criterion has been interpreted in different ways, but with effect from 8 September 2006 it is - with very few exceptions - considered to be fulfilled when family life within the meaning of article 8 ECHR exists. In principle, family life in this sense always exists between parents and their children, and may be considered to be terminated only in highly exceptional circumstances. This change of policy ties in with the stance of the Dutch government that parents and children belong together, and that their family ties should not be quickly deemed to be severed. The introduction of this clear criterion makes implementation much easier, and is more in line with the way in which the existence of family life is assessed in neighbouring European countries.

38. It should be noted that the Aliens Act 2000 was evaluated between 2003 and 2006. In its final report, the evaluating committee came to a number of conclusions, one being that the level of care exercised in the accelerated asylum procedure should be enhanced in order to achieve an improvement in quality, comparable to the improvement made in the standard asylum procedure as compared to the situation under the former Aliens Act. It also concluded that the

standard asylum procedure needs speeding up. In its coalition agreement, the government has undertaken – partly in the light of these conclusions – to improve the asylum procedure, particularly the accelerated procedure. The details are to be worked out later.

39. With regard to the points to which the Committee specifically drew attention, the following is noted.

Residence permits for rejected asylum seekers who through no fault of their own cannot return to their country of origin

40. The Netherlands is pleased that the Committee welcomes the option of granting a residence permit to asylum seekers who are able to demonstrate objectively that they cannot leave the Netherlands through no fault of their own (*'buiten schuld'*). The Netherlands shares the Committee's view that the criteria on the basis of which such permits are granted should be as clearly defined as possible.

41. The concept 'no fault of their own' should be regarded as an objective criterion, which entails that an alien must be able to demonstrate, with the aid of documentation that can be objectively assessed, that the authorities of his country of origin or (previous) residence will not grant permission for his return. As regards the attempts to obtain the necessary cooperation of the relevant national authorities, as well as the necessary (replacement) travel documents, an own responsibility rests with the alien.

42. In order for a residence permit to be issued on the above ground all the following conditions must have been met:

1. the alien has tried independently to leave the country. He has demonstrated that he has applied to the diplomatic or consular mission of the country or countries of which he is a national, where he previously resided regularly as a stateless alien, and/or of other countries of which it, due to the special facts and circumstances of the particular case, may be assumed that these countries are likely to admit him;
2. he has applied to the International Organisation for Migration (IOM) for assistance with his departure, and the IOM has indicated it is not able to facilitate the alien's departure, because the alien purports not to have a travel document at his disposal;
3. he has requested the Ministry of Justice's Repatriations and Departure Service to mediate with a view to obtaining the necessary documents from the authorities of the

country or countries that are likely to admit him, and such mediation has not been effective;

4. the combined facts and circumstances of his case are such that it can be determined that it is through no fault of his own that the alien cannot leave the Netherlands. This concerns objective, verifiable facts and circumstances that relate to him personally, and are backed by documentation; and
5. he is living in the Netherlands without a residence permit and does not fulfil the conditions for being granted another kind of residence permit.

43. Furthermore it must be noted that the State Secretary for Justice retains the right to deviate from this policy rule (having powers to depart from policy rules) in individual cases, and grant a permit, when applying this policy rule would, due to special circumstances, have consequences which would be out of proportion to the purposes of the rule.

Aliens who entered the Netherlands under the old Aliens Act

44. When assessing asylum applications, the Netherlands takes account of its obligations under international law, including the principle of non-refoulement, laid down inter alia in Article 3 of the ECHR and Article 3 of the Convention against Torture, and the right to family life, laid down inter alia in Article 8 of the ECHR.

45. The Committee refers to 'the Government's plans to return a very large number of failed asylum seekers'. Of the group of asylum seekers who have been in the Netherlands for a long time and who applied for asylum under the old Aliens Act, which was valid up to 31 March 2001, some 4,950 individuals are known to have left the country by the end of December 2006, largely through the mediation of the IOM. Some 10,750 aliens have acquired residence permits on various grounds, for instance because they were deemed to need protection, because they were unable to leave the Netherlands through no fault of their own, or because of humanitarian considerations. Around 8,290 of the original group have not demonstrably left the Netherlands.

46. The new government has introduced an arrangement intended to resolve this issue, (pardonregeling). This arrangement entails that residence permits will be issued to those failed asylum seekers who meet a number of objective criteria. These criteria entail, amongst others, that the alien has submitted his first asylum application before 1 April 2001, has resided continuously in the Netherlands since 1 April 2001, and there is no indication that he is a threat

to the public order. As a result of this arrangement, a large number of the group of aliens who applied for asylum under the old Aliens Act and who are still in the Netherlands will be issued a residence permit after all. Hence, returning them to their countries of origin is no longer an issue. The arrangement is currently being put into effect.

47. However, the above does not detract from the basic assumption that those who do not (or no longer) reside lawfully in the Netherlands, must leave the country, whether or not after the expiry of a set period. The reason being the government's conviction that the return of rejected asylum seekers improves the position of aliens who reside legally in the Netherlands, in terms of acceptance, social position and integration.

Minor asylum seekers

48. The Netherlands pursues a special policy on unaccompanied minor asylum seekers. Minor asylum seekers whose application has been rejected retain the right to reception until they reach the age of 18, unless reception becomes available in their country of origin before that time. If at the time their application is rejected it can not be determined whether reception in their country of origin is available, the minor is automatically issued a regular residence permit. If their circumstances remain unchanged, the permit granted may - provided that the additional conditions are fulfilled - after a three-year period be converted into a permit for continued residence.

49. Unaccompanied minors may be placed in an aliens' detention centre if this is necessary for returning them to their countries of origin. However, this measure is used only with great circumspection.

50. When families with children are to be returned, account is being taken of the vulnerable position of the children. If it is considered necessary to place a family in detention in order to return them, minor children are only detained if the parents indicate that they do not wish to be separated from them. Parents are also entitled to place the children elsewhere, for instance with relatives or friends, or with a foster family. In cases where families with children are detained, a special effort is made to keep the period of detention down to a minimum and to place them in locations with facilities for children.

51. In the international context, the most relevant convention regarding the detention of minors is the UN Convention on the Rights of the Child. Dutch practice accords with article 37(c) of the Convention which states, inter alia, that 'every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so'. The latter particularly applies if a parent, relative or close friend of the minor is also being detained.

52. Finally, it may be noted in this context that the State Secretary for Justice is currently reviewing the policy on minors, including minors in aliens' detention.

F. ETHNIC COMPOSITION OF THE POLICE (concl. obs. no. 15)

Developing a diversity policy

Working plan on diversity in the police 2001-2005

53. The working plan on diversity in the police 2001-2005 was drawn up in 2000. At the time, diversity was primarily regarded as a social issue. The main aim was to ensure that the police reflected the make-up of society. However, diversity policy was not confined during this period to target group policy within the police, but became an integral part of personnel policy as a whole. With a view to helping police forces to develop and implement the diversity policy, the Diversity and Police Expertise Centre (LECD) was set up in 2001.

Some of the results of the working plan are given below:

- Each police force has an officer responsible for diversity policy.
- Each police force has a confidential adviser. Support is provided for networks of diversity policy officers and central confidential advisers.
- Support is provided for women's networks.
- Police forces are developing policies to eliminate inappropriate behaviour.

Multi-year Framework for Police Diversity 2006-2010

54. Diversity policy revolves around respecting and exploiting the different qualities of an organisation's staff with a view to increasing effectiveness. For many years, emphasis in the police was on recruiting women and ethnic minority police officers. However, the Multi-year Framework for Police Diversity 2006-2010 represents a shift in policy. From a social perspective – efforts to have the police reflect the make-up of the regional labour force – the focus has shifted to a more businesslike perspective, concentrating on strategic and operational targets and police force performance. In this context, diversity is regarded as a business issue.

55. In concrete terms this means that forces will be looking more at the contribution that diversity makes to their own operational processes, e.g. investigation, intake, emergency assistance, etc. An expert group whose members include ethnic minority police officers has been set up to support forces in the event of public order problems and crime involving ethnic minorities.

Police policy plan 2005-2007

56. The police policy plan contains a diversity frame of reference developed to monitor the implementation of diversity measures in police forces. Checks carried out to see whether every force has set up a diversity policy plan containing target figures for the recruitment and promotion of women and ethnic minorities, and to monitor the impact of the plan. Checks are also carried out to establish whether superior officers are sufficiently informed about other cultures, religions, lifestyles, etc.

Results

57. The monitor shows that progress has been made in the field of diversity in recent years, and that the percentage of ethnic minority police officers has risen.

Year	Percentage of ethnic minorities	No. of ethnic minority officers
2003	5.9%	3424
2004	6.2%	3580
2005	6.2%	3629
2006	6.4%	3570

58. In 2006 the Minister of the Interior and Kingdom Relations and the police agreed on target figures for each police force. That same year saw a slight but heartening rise (0.2% compared to 2006) in the percentage of ethnic minority officers employed in the Dutch police force: 6.4%. These figures include the National Police Services Agency (KLPD), but exclude the Royal Military and Border Police (KMar). To date, however, only seven forces (Utrecht, Central Holland, South Holland, North Holland, Friesland, South Gelderland and the Gooi and Vecht region) have actually reached their target figure. Despite the fact that 19 have not reached their

target figure, the diversity percentage has risen within 11 forces, so the majority of police forces are on the right track.

Future plans

59. New agreements are currently being made regarding diversity for the period 2008-2011. They entail plans to set an ambitious national target figure, as well as figures for each force and separate agreements about the recruitment and promotion of ethnic minority officers and ethnic minority representation in senior posts. Police training must also pay more attention to diversity. In 2006 the police academy incorporated diversity in a limited number of modules in primary training. A learning pathway has also been developed for officials responsible for recruitment and selection, with emphasis on diversity. By 2008-2009, the aim is to have embedded diversity and multicultural professionalism (i.e. learning to deal with different cultures, religions, lifestyles, etc. in society) in mainstream police training and in the research and development components, so that all staff are properly prepared for a pluralist and multi-ethnic society.

G. THE INTERNATIONAL CONVENTION ON THE PROTECTION OF THE RIGHTS OF ALL MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES (concl. obs. no. 16)

60. At this point the Government has no plans to accede to the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. This has partly to do with the Benefit Entitlement (Residence Status) Act (*Koppelingswet*), which entered into force on 1 July 1998 and which distinguishes between foreigners with and without legal residence status, and the consequences of that distinction for entitlement to social security benefits.

61. It should be noted that only states that can be characterised as countries of origin of labour migrants have ratified that convention, while countries of destination have stood aside if other western countries were to ratify the convention, the Netherlands might review its current stance.

H. CONSULTING CIVIL SOCIETY ORGANISATIONS (concl. obs. no. 17)

62. The Netherlands attaches great importance to partnership with civil society organisations working to combat racial discrimination, and Dutch ministries regularly consult and meet with NGOs on matters relating to racial discrimination. A good example is the national anti-

discrimination organisation, Art. 1, which resulted from a merger between the National Bureau against Racial Discrimination (LBR) and the National Federation of Antidiscrimination Bureaus and Hotlines. It receives both permanent and project-based funding from the central government. Although the organisation works closely with government agencies and municipalities, it also seeks to influence policy by lobbying parliament and issuing shadow reports to international organisations. The Dutch government also subsidises the National Antiracism and Antidiscrimination Platform (NPRD), an umbrella organisation for most agencies seeking to combat discrimination on whatever grounds. The NPRD submits its findings in an annual letter to the Minister for Housing, Communities and Integration, and has elaborated various initiatives for the National Action Plan on Racism.

I. AVAILIBILTY REPORTS AND OBSERVATIONS (concl. obs. no. 18)

63. The Netherlands makes an effort to distribute its reports and the concluding observations among the public, as well as among government officials. Reports are as a rule submitted both to parliament and NGOs. Plans are in progress to place the reports and concluding observations on ministry websites.

III. INFORMATION RELATING TO ARTICLES 2-7 OF THE CONVENTION

64. Relevant information by article is provided below, focussing on major developments and new issues in the period under review (in so far as these have not already been dealt with in the answers to the concluding observations).

A. ARTICLE 2

National Action Plan on Racism

65. During the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), held in Durban in 2001, the Netherlands undertook to draw up a national action plan combating these forms of discrimination. After extensive consultation with the field, the National Action Plan on Racism (NAP) was presented in December 2003 (House of Representatives 29 200 VI, no. 62). The original plan can be found in Annex I. In June 2005 parliament received a progress report on the period 2003-2005 (House of Representatives 29

800 VI, no. 154). In the summer of 2007, the House of Representatives received another report, concerning the results achieved during the second and third Balkenende governments (2003-2006). Under the previous government, the national coordination of the NAP was the responsibility of the former Minister for Immigration and Integration. The Minister for Housing, Communities and Integration, who is now responsible for coordinating efforts to combat racism, ensured that a concluding report was drawn up. At the request of the House, a result-based format was adopted. All the measures and actions set out in the NAP have now been achieved or embedded in standard policy. The report, which is attached (see Annex II), contains descriptions of measures taken in recent years, grouped by the following themes: living environment, consciousness raising, equal treatment in the labour market and infrastructure. Some of the NAP action points were dealt with in the first progress report. Accordingly, an overview of all NAP action points is provided in the NAP progress report. The formulation of aims and agreements in the NAP has resulted in numerous policy initiatives that will be described in this 17th/18th CERD report.

The action points for the NAP have been completed, but fighting racism remains a priority. The current government believes that the right to equal treatment is one of the basic pillars of social relations between individuals, and between individuals and government. Protecting individuals against discrimination is vital if democracy, the rule of law, social cohesion and social relations are to be maintained. The government has therefore identified fighting discrimination as a priority for its current term of office. In the second half of 2008 an action plan will be presented to Parliament, outlining the measures the government will take to combat racism. The plan will outline how the Minister for Housing, Communities and Integration will shape anti-racism policy, together with the Minister of Justice, the Minister of the Interior and Kingdom Relations, the Minister of Education, Culture and Science, the Minister of Social Affairs and Employment and the Minister of Health, Welfare and Sport. The plan will also look at combating racism at local level.

Performance agreements with the police on tackling discrimination

66. Tackling discrimination is a highly important issue for the Minister of Justice and the Minister of the Interior and Kingdom Relations, as evinced by the inclusion of discrimination in police performance agreements for 2007. Under the terms of the agreements, police forces are obliged to keep the Public Prosecution Service, local authorities and relevant stakeholders regularly informed of the situation on discrimination and crime, and to implement the nine

parameters for combating discrimination as laid down by the Board of Chief Commissioners on 14 January 2004.

In concrete terms, this means that police forces must:

- incorporate antidiscrimination policies in their annual plan;
- maintain an up-to-date list of all discriminatory incidents and reports of discrimination;
- regularly discuss the above list with the Public Prosecution Service, local authorities and other relevant stakeholders;
- draw up an annual table for the Public Prosecution Service giving the figures on reported cases of discrimination and the action taken;
- make a member of the Force Management Team / Regional Management Team responsible for the discrimination portfolio and appoint a regional liaison officer for discrimination;
- ensure that the regional police force manager tables discrimination in tripartite talks with the mayor and Public Prosecution Service.

For their part, the Ministers of Justice and of the Interior and Kingdom Relations undertake to promote systematic partnership between local governments, the Public Prosecution Service and other relevant partners. On 7 June 2007, the Ministries of Justice and of the Interior & Kingdom Relations held a conference on a joint approach to discrimination, aided by the police and the Public Prosecution Service (see for the results in compact form Annex III). In mid-2007, the Minister for Housing, Communities and Integration will draw up voluntary agreements with a number of cities and provinces with a view to improving coordination between local government and the police and the Public Prosecution Service.

Registering, reporting and dealing with cases of discrimination

67. The police register cases of discrimination and offences of a discriminatory nature, such as racism, in the force's registration system. In some forces this is being done, by way of experiment, in the form of a question about discrimination in the standard list of questions. All forces make a note of the discriminatory element of the offence in the information box.

68. The national search engine Blue View – a kind of police Google – has been operational since July 2006. Blue View facilitates the search for cases of discrimination and cases with a discriminatory element in a central system making it much easier to find offences with a discriminatory element.

69. The police are currently improving the system of registering cases of discrimination and cases with a discriminatory element (also known as hate crimes) by providing special training for Intake & Service staff responsible for registering such cases.

70. The National Discrimination Expertise Centre (LECD) is working on a project entitled 'Hate crimes'. Its aims are to:

1. establish the true figures for racist, religious and homophobic hate crimes;
2. provide a confidential, high-quality support service for victims of hate crimes;
3. win the confidence of ethnic minority members of the community and increase the proportion of incidents reported.

A pilot will be carried out in partnership with two regional police forces. It will also be crucial to involve civil society organisations; this will require proper coordination. The project is expected to start in late 2007, or earlier if possible. The LECD is also developing a uniform regional format for analysing discrimination-related crime patterns, in line with performance agreements with the Ministers of the Interior & Kingdom Relations and of Justice.

The above-mentioned developments will provide a thorough regional picture of cases of discrimination.

Minority organisations

71. The Dutch government frequently consults the many bodies representing ethnic minority groups, brought together in the National Ethnic Minorities Consultative Committee (LOM). Between 2005 and 2007 it has also financed a programme encouraging minority organisations to promote mutual understanding between the indigenous Dutch population and ethnic minority groups. The programme forms part of the Social Cohesion Initiative (see under *Integration policy and promotion of general awareness*, II. A, concl. obs. no. 10) and has entailed setting up many projects to promote minority participation in all aspects of society and to eliminate barriers between ethnic groups. The overall goal is to strengthen social cohesion and interpersonal bonds, and to promote a sense of citizenship and 'belonging'. The government helps these bodies to organise conferences and summer schools, develop role models, and set up training courses and websites. The programme will be evaluated at the end of 2007.

Information about equal treatment of ethnic minorities

Complaints procedure:

72. The Equal Treatment Commission (CGB) is authorised to investigate cases of alleged unequal treatment of ethnic minorities.

Information from CGB	Race	Nationality
Decisions		
2005	39	46
2006	47	52
Requests		
2004	45	12
2005	78	20
2006	105	20
Telephone helpline		
2004	45	32
2005	78	50
2006	105	68

Infrastructure Antidiscrimination Bureaus

73. Organisations and members of the public can turn to various bodies with complaints about discrimination, such as the police, confidential advisers or Antidiscrimination Bureaus and Hotlines (ADB). ADBs are the first point of access for people who feel discriminated against; they provide advice and mediation, and compile a central database of the complaints submitted to them. If an ADB thinks that a particular case is serious, it refers the person or organisation to the CGB (see above).

74. In 2005, the ADBs received a total of 2,116 complaints of racial discrimination. Over the last few years, such complaints have declined slightly, compared with before 2003. In 2005 a total of 80 complaints were received about discrimination on the grounds of nationality, thus remaining fairly constant compared with previous years. Discrimination on the basis of nationality remains fairly constant at around 2% of all complaints. Complaints tend to concern withholding goods and services – or providing them less advantageously – to persons who do not possess a Dutch passport or who have only a temporary residence permit. In 2005, 281 complaints were received concerning discrimination on the basis of religion, a decline since 2004, when 328 complaints were received. This represented a decline from 9% in 2004 to 6% in 2005. In the first few months after the attacks of 11 September 2001 in the United States, there

was a sharp growth in the number of complaints on the basis of religion. The same pattern appeared after the murder of Theo van Gogh in November 2004. Almost 30% of complaints about discrimination on the basis of religion in 2004 were submitted in November. Just as in 2001, this sharp increase in complaints was short-lived.

75. As stated earlier (under *Integration policy and promotion of general awareness*, II.A, concl. obs. no. 10) the government sets great store by good local antidiscrimination services. A steering group was accordingly set up under the previous government to look into the future of the ADBs. It was chaired by former minister Els Borst-Eilers. The steering group's advisory report, entitled 'Prospects of equal treatment' was submitted to the House of Representatives on 13 February 2006. It adopted the stance that members of the public should be able to take part in society on an equal footing. They must feel protected against discrimination. Therefore, everyone in the Netherlands must have ready access to, independent and efficient advice and assistance in the event that they feel discriminated against.

76. Action is currently being taken to give effect to the steering group's recommendations, under the leadership of the Minister for Housing, Communities and Integration. As mentioned above, the government is currently attempting to set up a national network of professional, easily accessible antidiscrimination services (ADVs) at local level. It has therefore prepared legislation, scheduled to enter into force in January 2008, whereby central and local government will share responsibility for antidiscrimination efforts, and all municipalities will be required to offer local residents low-threshold antidiscrimination services. Local authorities will receive permanent funding to provide this service.

77. Until then a bridging measure has been taken for 2006 and 2007 to maintain and expand the current ADVs and set up new ones. Their core tasks include registering and dealing with complaints (involving mediation and victim support). Members of the public can approach these services with complaints about all kinds of discrimination, in any conceivable field, such as complaints about work placement or employment in general. The support service of the national antidiscrimination organisation plays an important part here, promoting professionalism and clear registration. The annual figures of the ADVs are published each year, with a breakdown of complaints according to the nature of the discrimination and the field in which it occurred.

Positive action

78. Following judgments by the European Court of Justice, the government has laid down guidelines regarding policy on positive action. Employers may deviate from the general principle of equal treatment, providing certain conditions are met:

- Positive action may only be taken in the case of groups that suffer systematic disadvantage, i.e. women, ethnic minorities, the chronically ill and the disabled.
- Radical forms of positive action are no longer permitted (e.g. positive action in the event of *sufficient* suitability), but in the case of *equal* suitability positive action is permitted.
- Members of ethnic minorities may especially be encouraged to apply for jobs.
- Job applicants from groups to which positive action does not apply may not be ruled out in advance from applying for a particular position.

79. In this respect the government adopts a consistent approach, regarding positive action as an exception to the equal treatment norm, which is defensible only in cases of systematic disadvantage or discrimination in society, i.e. only on the basis of ethnic origin, sex and disability.

The National Ethnic Minorities Consultative Committee

80. As mentioned earlier, the National Ethnic Minorities Consultative Committee (LOM) provides a forum for consultation between the government and ethnic minority platforms, as laid down in the Minorities Policy (Consultation) Act of 19 June 1997. The LOM meets at least three times a year. The government is represented by the Minister for Housing, Communities and Integration (the coordinating minister) and the ministers or state secretaries whose portfolios relate to the items on the agenda. The consultations concern policy proposals regarding the integration of minorities and developments relevant to minorities. Agenda items may be put forward by representatives of both government and minority groups. Eight minority platforms are allowed to take part in the LOM.

81. LOM talks form part of government policy preparations, because the government wishes to know in advance what minority groups think of proposed integration measures. Their knowledge of the circumstances, culture and special problems of the communities they represent enable them to judge whether proposed government measures are likely to succeed.

82. The platforms that are involved in the LOM work closely with one another and with strategic partners as diverse as trade unions, senior citizens' associations and civil society organisations.

The platforms represented in the LOM

83. Seven Dutch networks work together to improve the social position of various ethnic minority groups:

- Chinese Community Advisory Association (IOC)
- Turkish Community Advisory Association (IOT)
- Southern European Communities Advisory Association
- Dutch Caribbean Community Consultative Committee (OCaN),
- Surinamese Community Advisory Association (SIO),
- Moroccan and Tunisian Alliance (SMT),
- Dutch Refugee Agencies (VON).

B. ARTICLE 4

Amendments to Criminal Code

84. On 1 January 2004 an amendment to the antidiscrimination provisions of the Criminal Code took effect, which raised the statutory maximum sentence for structural forms of discrimination. The background to these changes was explained in the previous report in the section on the Bill that led to the amendments (fifteenth and sixteenth report, CERD/C/452/Add.3, paras. 5-7).

A summary of judgments in discrimination cases from 2002 to 2007

85. In a judgment of 31 January 2002 the Leeuwarden district court sentenced a young man who, together with several other youths, had set fire to a school attended by young asylum-seekers to 30 months' imprisonment, six months of which suspended. The court held that, considering the racist motives for the arson attack the offender not only had caused damage to property, but also to society, something which could not be expressed in monetary terms.

86. On 22 February 2002, the Roermond district court sentenced a man to community service for eighty hours/forty days and a suspended one-month prison sentence for shouting

slogans as 'Foreigners out!', 'White Power' and "Filthy foreigners, filthy Turks' at a group, consisting of members of ethnic minorities.

87. On 11 June 2002, the Dordrecht district court gave judgment in proceedings against the chair of the New National Party (NNP). On the NNP's website texts had appeared concerning people of Moroccan origin, among which: 'The third generation can be highly dangerous. The third generation is being brought up by parents who have themselves had no proper upbringing. Parents who were largely raised in prisons, by the probation service and social services. Parents who have never worked. Parents who are involved in drug-dealing, arms dealing, trafficking in women, fraud, burglary, murder, mugging, rape and other crimes' and 'The NNP wants to see apartheid here. We know there is no other way. Integration is and will always remain an illusion.' The court held that an offence under article 137d of the Criminal Code (incitement to discrimination) had been proven and that the texts referred to persons of Moroccan origin in an unnecessarily offensive way, intended to incite hatred and discrimination. Since the defendant, who had earlier been convicted of similar offences, was 77 years old and in poor health, the court confined itself to imposing a fine of €660. Failure to pay the fine would result in thirty days imprisonment. Two co-defendants, the editor-in-chief of *Barricade*, the NNP newspaper which had originally published the texts placed on the website, and the NNP treasurer, were acquitted because it had not been proven that they could be held responsible for placing the article on the website. On 3 June 2003, the court of appeal in The Hague ruled that the second text merely expressed an opinion, rather than incite hatred. On this count therefore, the defendant was discharged from prosecution on a point of law.

88. In a ruling handed down on 17 September 2002, the Court of Cassation declared an appeal in cassation, lodged by the Public Prosecution Service, inadmissible. The court of appeal had acquitted a doorman of a nightclub of charges of discrimination during the exercise of a profession or business (article 429quater of the Criminal Code), finding it not proven that he had refused admittance to a man of Iranian descent on account of his race. The court of appeal had held that the action appeared to be neutral – all persons living at a specific address, the departure centre for failed asylum seekers at Ter Apel, were refused admittance – but in practice affected persons of a specific group, i.e. those of non-Dutch origin. The difference in treatment could nevertheless, in the court's view, be explained on the grounds of objectively justified factors such as the serious disturbances that had taken place, the rumour that people would try to 'seek revenge', the safety risk for people inside the club, the absence of extra police support,

the lack of an immediate solution to the problem of expected further disturbances, and the fact that the measure did not affect asylum seekers in general, since asylum seekers from other centres were admitted. Direct or indirect discrimination was therefore not at issue. The Court of Cassation ruled that the court of appeal had not wrongly interpreted the words 'made a distinction on account of their race'.

89. On 12 February 2003, the Arnhem court of appeal sentenced a soldier who had run over a Turkish man because of racist motives to twenty months in prison and banned him from driving for two years. The Ministry of Defence discharged the soldier following the incident.

90. On 29 April 2003, the 's-Hertogenbosch court of appeal gave judgment in proceedings against three men who had distributed pamphlets during a demonstration. The pamphlet with the headline 'Stop asylum seekers now' contained the following sentence: 'What's good enough for our boys (a reference to the fact that Dutch soldiers are housed in tent camps) is apparently not good enough for asylum-seekers'. The pamphlets were handed out during a demonstration by a group of 50 people, mainly dressed in black and wearing military-style boots, carrying placards, banners and flags with neo-Nazi texts and runic characters, while shouting slogans such as 'Ausländer raus'. The court of appeal concluded that the intention was evidently to propagate the ideas of national socialism. In its view, the pamphlet had acquired the status of 'written material' as referred to in article 137d of the Criminal Code due to the circumstances in which it was distributed, which had been clearly established in court. In passing sentence, the court of appeal took into account the fact that two of the defendants had already been convicted repeatedly for similar offences and had been given substantial sentences, that the two men had committed the offences found proven during the operational period of a suspended sentence for similar offences and that one of the defendants had assumed the role of leader of the group of demonstrators. Two of the defendants received prison sentences of six and four weeks respectively, and the third a sentence of four weeks, two weeks of which suspended. Over and above this they were ordered to pay a fine of €300, €150 of which suspended.

91. In a ruling of 14 June 2003, the 's-Hertogenbosch court of appeal sentenced a man to an eight-year term of imprisonment and imposed a hospital order (TBS) on him for assault and arson at the home of a Somali national in Tilburg.

92. On 24 June 2003, the court of appeal in The Hague rendered judgment in proceedings against a man who had been found to have copies of 'Resistance', a discriminatory periodical, and various other items of a discriminatory, neo-Nazi or fascist nature, including various kinds of sound recording medium, such as CDs, in his possession. The court of appeal found it proven that the defendant was keeping stocks of the impounded copies of the CDs and the periodical for distribution purposes and held that, in view of the amount of material impounded and its nature and tenor, he had, by disseminating or having the intent to disseminate such material, seriously violated fundamental rights and freedoms, such as the right not to be subjected to discrimination, hatred and violence. The appeal court sentenced the defendant to 120 hours of community service and a term of imprisonment of one month, with a probation period of two years. The impounded material was declared forfeit.

93. In a judgment of 11 September 2003, the Amsterdam court of appeal sentenced the chair of the *Nederlandse Volksunie* (NVU), an extremist right-wing political party, to four months imprisonment, two months of which suspended, for making insulting remarks about, among others, Muslims, Jews, Surinamese, and Antilleans during a party meeting at which journalists were present. The court of appeal took the view that the statements were deliberately made in public, since the documents submitted as evidence made it clear that the no attempt was made to prevent members of the press from attending the meeting, reporting on it or filming it. On the contrary, some of the journalists had been invited by one of the organisers. In passing sentence, the court took into account the fact that, due to the intimidating manner in which they were communicated, the statements also incited hatred, discrimination, and possibly violence against the persons referred to. This is not only offensive to the persons concerned; it is repugnant, causes unrest and runs counter to the values and standards of Dutch society. The defendant also had previous convictions for similar offences. The court of appeal found a sentence of five months' imprisonment, two months of which suspended, to be appropriate, but imposed a lighter sentence nonetheless, since the 'reasonable time' requirement laid down in article 6 of the ECHR had been exceeded.

94. On 16 October 2003, the 's-'Hertogenbosch district court sentenced a man from Eindhoven, who, together with two others, had thrown a home-made fire bomb into a Muslim primary school, to twelve months imprisonment, six months of which suspended, with a probation period of two years. His co-offenders were also penalized.

95. In a judgment of 3 December 2003, the Dordrecht district court acquitted the doorman of a bar who had refused to admit a group consisting of five men of Turkish origin, because it did not find it proven that he had discriminated on grounds of race. The defendant had stated that in implementing the bar's door policy he observed criteria such as whether he recognised the person concerned from an earlier, unproblematic visit (in his words 'regular customers'), the composition of the group (in any event no football supporters or stag parties), the mood of the person concerned (tense or relaxed) and whether the person concerned was a guest of a regular customer.

96. In a ruling of 15 April 2004 the Court of Cassation dismissed the appeal lodged by a former police officer, who had had letters published in the *Kollumer Courant* newspaper, which included passages such as 'So there are displaced persons and refugees. The latter are those we have been reading more than enough about lately: torturers, thieves, murderers, ex-convicts etc., etc.' and 'Let me tell you this [...] if the murderer isn't found, then you and your friends at the asylum-seekers' centre will go down in history as the prime suspects, mark my words.' The court of appeal had earlier ruled that whatever the defendant's intentions were in expressing these views, regarded objectively both in isolation and in their context the passages found proven were insulting and offensive to the group of asylum seekers and/or refugees in this country on grounds of their race, within the meaning of article 137c of the Criminal Code. The defendant must have been aware, the court held, of the insulting nature of his comments. The court of appeal also took into account the intention behind the letters, namely to publicly denounce the conduct of the investigation into the murder of Marianne Vaatstra.

97. In a judgment of 15 March 2005, The Hague district court dismissed an application for an interlocutory injunction against Ayaan Hirsi Ali in summary proceedings. On the basis of a number of statements made in interviews and in two books (*De zoontjesfabriek* and *De Maagdenkooi*) concerning the sources of Islam – the Koran, the manner of living of the prophet Mohammed and a collection of sayings attributed to him (the Hadith) – and the film *Submission Part I* about the oppression of Muslim women, which she made with Theo van Gogh in 2004, the applicants requested the court to prohibit Hirsi Ali from:

- making insulting or offensive utterances in public concerning the Muslim section of the population or parts thereof, whether in writing, film, orally or in any other manner;
- making blasphemous utterances about the Islamic faith and/or culture and/or the prophet Mohammed;

- expressing views causing offence to Muslim believers;
- releasing the second part of *Submission* or a film of similar content to *Submission Part I*, or releasing such a film before it has been determined by an expert or group of experts appointed by the court that such a film does not contain any elements which might be blasphemous and/or offensive and/or insulting to Muslims.

98. The applicants also sought an order compelling Hirsi Ali to place a rectification on the front page of two national daily newspapers retracting her earlier negative pronouncements on the Muslim faith and Muslim believers. The court ruled that Hirsi Ali's utterances had been taken out of their context by the applicants, and had as a result begun to lead a life of their own. The court found that this could not be attributed to Hirsi Ali. The applicants had not satisfactorily established that it had been her deliberate purpose to offend or insult them or to make blasphemous statements about the Muslim faith. If the applicants had perceived it in that light, Hirsi Ali cannot automatically be held accountable for this. With regard to the words 'paedophile' and 'perverse' as used by Hirsi Ali in connection with the prophet Mohammed, the court held that the use of these words was unfortunate, but has only occurred once or twice, so that Hirsi Ali has remained within the bounds of what is permissible. Furthermore, the applicants did not put forward any arguments claiming that the Koran texts used, for example, in *Submission Part I* were incorrect citations. Nor did they establish a plausible case that there could be no connection between a literal interpretation of certain Koran texts and the oppression of Muslim women. The court ruled that there were insufficient grounds for prohibiting Hirsi Ali from releasing another film like *Submission Part I*. It furthermore deemed it unnecessary to appoint a group of experts or to impose restrictions or conditions on the release of such a film as sought by the applicants.

99. In a judgment handed down on 30 August 2005, the 's-Hertogenbosch district court sentenced a number of persons to terms of imprisonment varying from 150 days to 9 months and imposed community service orders varying from 100 to 228 hours for setting fire to the Bedir primary school in Uden. In passing sentence, the court took into account the fact that, partly because there had been an earlier arson attack on the school, the defendants' action had caused serious unrest and feelings of insecurity in the community.

100. In a judgment of 19 December 2005, the The Hague district court sentenced a twenty-year-old man to 36 months in prison, six months of which suspended, for arson and destruction

of property belonging to an Iraqi family. For over two years the family had been the target of a series of offences committed by a group of young men from the neighbourhood with racist attitudes. The group had terrorised the family in a number of ways, including by throwing bricks through windows of their home. A few months later the defendant conceived the bizarre idea of committing 'a final act' and, while the family was asleep upstairs, doused the front door of the house with petrol and set it alight. The door and the letterbox were partly destroyed.

101. On 29 December 2005, the Amsterdam court of appeal dismissed a complaint concerning the decision of the Public Prosecution Service not to prosecute the chair of the Dutch Zionist Federation (FNZ) for insulting behaviour, defamation and discrimination. He had, among others, placed the following statements on the FNZ website: 'Moroccans and Turks are anti-Semitic' and 'They are as rabidly anti-Semitic as the rest of the Arab-Islamic world'. The court of appeal's ruling was based on the fact that while the statements were in themselves insulting and discriminatory, they were made in the context of public debate on the problems in the Middle East and should therefore be regarded in the light of the associated polemic, as was clear from the rest of the text. This meant that the limits of journalistic freedom and/or the limits of freedom of expression had not been exceeded.

102. On 20 January 2006, the Haarlem district court gave judgment in a case against members of a group of 'Lonsdalers' (young people holding extreme right-wing views, so-called because of the brand of clothing they wear). In 2004, members of the group had vandalised property at various locations in the seaside town of Zandvoort, leaving behind swastikas and White Power symbols as their 'trademark'. The court imposed a community service order of 150 hours on the leader and sentenced his three co-defendants to 200, 180 and 100 hours respectively. The group was also ordered to pay €2000 in compensation.

103. On 23 February 2003, the Amsterdam district court gave judgment in a case against a public prosecutor of the Arnhem region. According to the National "Roma Emancipation" Foundation, the defendant had made unnecessarily offensive and insulting remarks during his closing speech in court in May 2003. These included comments such as 'nearly all Roma are criminals' and 'they see breaking and entering as a perfectly normal activity'. The district court deplored the remarks but took the view that the defendant's actions were at the limit of what the court considered permissible in the context of exemplary sentencing. It took into account the fact that the defendant emphasised that his remarks were directed to the court and the other persons

present. The dynamics which were attributed to his words in the media were never his intention. The district court declared the charges not proven and acquitted the defendant.

104. In a judgment of 24 May 2006, the Rotterdam district court sentenced the maker of a video clip promoting a fictitious house party ('Housewitz') to be held at the grounds of Auschwitz to 40 hours of community service. The clip contained images of concentration camp inmates, gas chambers and bodies. The images alternated with texts such as 'Tanzen macht frei' and 'Hot showers'. The fact that the maker had not intended the clip to be widely distributed was of no avail to him. By placing the clip on the internet, he had brought it into the public domain, making it likely that others would come across it. This is exactly what happened, since after the maker had removed Housewitz from the internet and offered his apologies, it was placed on a popular weblog and circulated widely from there.

105. On 3 June 2006, the Breda district court acquitted a man suspected of scratching swastikas etc. into the paintwork of over 25 passenger vehicles. There were doubts as to whether the man, who has an intellectual disability, had actually committed the offences in question.

106. On 20 June 2006, the Amsterdam district court fined a man to €500 for insulting and threatening two traffic wardens on account of their race. The man had called the traffic wardens 'f***ing foreigners' and 'dirty niggers'.

107. In a judgment delivered on 5 October 2006, the Dordrecht district court sentenced three right-wing extremists to terms of imprisonment of three years (eight months suspended), two years (eight months suspended) and twenty-one months (seven months suspended) respectively for the attempted manslaughter or assault of a man of Antillean origin. Three co-defendants were acquitted on the charge of assault, although two of them were fined and received two-month prison sentences for the illegal possession of weapons and a consignment of T-shirts bearing racist slogans.

108. On 19 October 2006, the Amsterdam court of appeal acquitted a man to whom a number of packages containing a large quantity of badges and emblems bearing Nazi symbols that arrived at Schiphol airport were addressed. The court of appeal held that his defence, that he kept large numbers of these articles in stock for sale to the film industry, was credible. It further

held that the use he had made of these articles did not render them 'objects' within the meaning of article 137e of the Criminal Code.

109. In a judgment given on 6 November 2006, the Breda district court fined a young woman to €500 (€250 of which suspended) for shouting 'White Power for ever, White Power today' at a dark-skinned woman.

110. On 17 November 2006, the Amsterdam court of appeal sentenced a man to a week-long suspended prison sentence and a fine of €500 for maintaining what he called a 'satirical website' on which he had made insulting remarks about Jews and homosexuals. The website featured a fictitious Christian internet community which, in talking about the Christian faith, made statements about Jews and homosexuals. The defence that the site was an example of artistic expression and that it contributed to public debate was dismissed by the court of appeal because the texts had exceeded the bounds of what is acceptable and were unnecessarily offensive.

C. ARTICLE 5

Access to public service

111. 9.3% of civil servants in central government come from an ethnic minority background, but the proportion in middle or senior management posts is only 5.7%. As part of the action plan on ethnic diversity within the public service, senior Dutch civil servants identified three priority measures in the autumn of 2005: improve the opportunities for learning on the job for members of ethnic minority groups; screen instruments used in the selection process; and increase the commitment of managers to diversity policies. In addition, the recruitment of ethnic minority civil servants is emphasised in job vacancies. Members of ethnic minorities are leaving the civil service in relatively high numbers. The reasons for this are currently being examined.

112. An integrated approach to diversity management in the civil service was recently developed. This involved formulating objectives and measures aimed at achieving a more balanced organisation in general (in terms of gender, ethnicity, age). These measures will be incorporated into standard civil service HRM policies wherever possible. In addition, a successful diversity policy will be pursued by stimulating commitment and expertise within the service, especially at middle-management level. The central HRM body will support the ministries by

launching an information system on the intranet, developing diversity management instruments and conducting relevant research. Implementation began in 2007.

Labour market policies for ethnic minorities

1. Past policies

113. Since 1998/1999 various measures have been taken to improve the rate of employment among ethnic minorities in the Netherlands. In 2000 the Ministry of Social Affairs and Employment published its Labour Market Policy for Ethnic Minorities, Plan of Action, detailing all the different aspects. The policy included a wide variety of instruments such as:

- a) the Employment of Minorities (Promotion) Act
- b) the voluntary agreement on ethnic minorities with the small and medium-sized business sector
- c) the Framework Voluntary Agreement with Large Companies
- d) the Ethnic Minority Grants Programme

Re. a

- Under the Employment of Minorities (Promotion) Act, all companies with more than 35 employees were required to report on the number of ethnic minority people in their employment (relative to regional target figures) and on the policy conducted by the company to achieve proportionality under the Act.
- Although the number of companies that submitted an annual report under the Act increased annually, full compliance was never achieved.
- An evaluation of the Act revealed that the objective of making employers aware of their responsibility in this area and stimulating them to take measures to increase the participation of ethnic minorities was achieved. The objective of increasing employment among ethnic minorities was not achieved, however.
- The Employment of Minorities (Promotion) Act was initially introduced on a temporary basis. After being extended for two years in 2002, it was repealed in 2004. Various activities arising from the Act are now being developed within the National Diversity Management Network.
- The repeal of the Act was in line with the government's objective of reducing the administrative burden for employers.

Re. b

- The voluntary agreement on ethnic minorities with the small and medium-sized business sector was an agreement between the Dutch Federation of Small and Medium-sized Enterprises (MKB-Nederland), the Dutch Employment Service (now the Centre for Work and Income, CWI) and central government.
- The goal was to find work for 20,000 ethnic minority jobseekers.
- MKB-Nederland would aim to register 30,000 new vacancies with the Employment Service, with employers expressing a preference for ethnic minority applicants.
- The Employment Service was responsible for developing an intensive, tailor-made approach (one-to-one approach, with priority for ethnic minorities) in order to fill 20,000 job vacancies specifically targeted at ethnic minorities.
- The parties to the voluntary agreement also benefited from a very intensive, joint communication strategy (MKB-Nederland representatives called on companies in person, while the Employment Service and the Ministry of Social Affairs and Employment visited mosques).
- Following a fairly slow start, the targets set in the agreement were amply achieved after the period of the agreement was extended. A total of more than 78,000 new vacancies were registered. More than 70,000 jobseekers found work under the programme, almost 62,000 of whom came from ethnic minority groups.

Re. c

- The Framework Voluntary Agreement with Large Companies was implemented in the form of individual voluntary agreements between large companies and central government.
- These included target figures for recruiting people from ethnic minority groups and set out the measures to be taken by employers to promote intercultural personnel policy.
- Every six months the companies presented and evaluated the results during a meeting with two government ministers.
- The Framework Voluntary Agreement with Large Companies came to an end in June 2004.
- The upshot of this initiative was that more than 90% of the 700 voluntary agreements reached within this framework were implemented and most companies have expressed their intention to pursue diversity management. The DIV disseminated the results to employers.

Re. d

- The Ethnic Minority Grants Programme was implemented by municipalities, with the specific aims of helping unemployed people from ethnic minority groups find employment or training and increasing the scope of municipal reintegration instruments for this target group.
- The programme comprised about 40 projects, which attracted a varying number of participants and were developed and implemented by the municipalities themselves.
- Thanks to these projects, more than 2,200 participants went on to take up training or employment, albeit fewer than the target figure.
- The programme came to an end in 2004.

2. The new approach to labour market policies after 2005

114. Target group policies used to be aimed at specific groups that were underrepresented in the workplace. They served to attract attention and had a mobilising effect, but they also had two significant drawbacks:

1. Target group policies tended to stigmatise individuals. Although not everyone in a particular target group has the same characteristics, all are marked by association.
2. Where several possible solutions existed, the tendency was for the same organisations to be approached for different target groups. At the same time a more systematic approach to the problem was often overlooked as a result of targeting policies at just one group.

115. In the new approach to labour market policies (generic policies), the factors hindering someone's participation in the labour market serve as the criteria for action, not the group to which that person belongs. Labour market policies now fall into two categories: general and supplementary.

116. Implementation is centralised to some extent, but is largely the responsibility of the organisations involved in the work and income chain. If a jobseeker is faced with obstacles to employment that are mainly of a personal nature, a placement counsellor identifies those obstacles and seeks an individually tailored solution. Agreements have been made with the CWI and the Employee Insurance Agency (UWV) to offer jobseekers a service that meets their individual needs. Furthermore, once the voluntary agreement on ethnic minorities with the small and medium-sized business sector came to an end, it was agreed with the CWI that the

knowledge gained under this agreement and the working practices of the CWI staff employed to advise companies on ethnic minorities would be incorporated into the mainstream services of the CWI.

117. In parallel with generic policies, from which ethnic minorities benefit just like other groups, the government has often worked closely with the social partners and other stakeholders to develop a number of initiatives that tackle potential obstacles facing ethnic minority jobseekers in their attempts to take up gainful employment (e.g. in the areas of language proficiency, qualifications, job-hunting strategies and relevant social networks). An effort is also being made to combat negative perceptions and discrimination in relation to ethnic minority jobseekers and specific, supplementary policies are implemented on a temporary basis where necessary. The activities targeted at ethnic minorities undertaken in 2005 and 2006 are summarised below.

Review of 2005

118. Having shown some improvement, the position of ethnic minorities in the labour market has once again deteriorated in the past few years. Unemployment among this group rose from 10% in 2000 to 16% in 2005. During the same period, unemployment among ethnic Dutch people increased from 3.8% to 5.2%. This prompted the decision in 2005 to develop supplementary activities for ethnic minorities. As part of the Social Cohesion Initiative, the government entered into agreements with the social partners, benefits agencies, the VNG, ethnic minority organisations and other civil society organisations concerning a joint approach aimed at improving the position of ethnic minorities in the labour market and combating discrimination. This led to a large number of projects, focusing on coaching and empowerment of the target group, encouraging positive perceptions and mediation to help people find practical training positions and jobs.

119. Special attention was also devoted to the following target groups:

➤ Refugees

Measures were taken to identify and acknowledge the talents of highly qualified refugees at an early stage. With financial assistance from the Ministry of Social Affairs and Employment, a number of projects were also developed or launched in 2005 to promote the employment of refugees:

- one important initiative is the Job Offensive for Refugees: the Dutch Council for Refugees, together with the Foundation for Refugee Students UAF, Emplooi (an

organisation in which volunteers help refugees to find suitable employment) and the CWI, launched a joint employment offensive for refugees, setting themselves the target of finding jobs for 2,600 refugees within three and a half years;

- a government-subsidised project of the UAF and the Verwey-Jonker Institute to encourage the participation of highly qualified female refugees in society (150 more highly qualified refugee women);
 - research (conducted by Regioplan) into the labour market status of refugees in the Netherlands (who they are exactly, their occupation, level of education, etc.);
 - a public information campaign concerning the opportunities and obstacles for refugees in the labour market.
- Ethnic minority women
- From July 2003 to July 2005, the Committee for Ethnic Minority Women's Participation (PaVEM) worked to have the ethnic minority women target group placed on the agenda of important stakeholders. The Committee entered into agreements with 30 cities, businesses, civil society organisations and ethnic minority women. It also developed instruments to ensure that participation by this target group would be given priority in their policies.

Review of 2006

➤ Ethnic minority young people

120. In 2006 there was a follow-up to the series of projects that the Ministry of Social Affairs and Employment had launched in 2005 as part of the Social Cohesion Initiative, with the aim of improving the position of ethnic minorities in the labour market. Twelve projects specifically focused on the problems of ethnic minority young people and refugees, with the main themes being coaching and empowerment, job placement and employers' perceptions. In this context, ethnic minority role models frequently visited schools, company employees coached ethnic minority students and meetings and job markets were organised to bring together ethnic minority young people and employers to enable suitable matches to be found. More than 1,000 young people have been coached and/or have completed an empowerment programme.

121. The principle underlying many projects is to encourage the ethnic minority community itself to strive for equal opportunities. One example is the campaign *Trendy Maroc star in NL*, in which young Moroccans are trained by successful people from their own community. The training aims to boost their self-confidence and help them understand the labour market better.

➤ Refugees

As part of the Job Offensive for Refugees, the Dutch Council for Refugees – together with the UAF, Emplooi and the CWI – helped 700 refugees, including 150 highly qualified people, find work in 2006.

➤ Ethnic minority women

The Minister of Social Affairs and Employment approved PaVEM's results in the area of work in 2006. To ensure continuity in implementing the agreements that have been made on the subject of work, a body that will play a leading role in maintaining the momentum generated so far was set up on 1 February 2006: the Ethnic Minority Women and Employment Coordination Group (RAVA). This group will operate for a period of two years, until the end of 2007, and is made up of representatives from the CWI, the UWV, the VNG, the Ministry of Social Affairs and Employment, employers, trade unions and the target group itself.

Statistics

Labour force, by gender (x 1,000)

Personal characteristics	Year	Total population 15-64 years	Total labour force	Gross labour force participation (%)	Net labour force participation (%)	Unemployment rate (%)
Non-western immigrant origin	1996	793	406	51.2	40.0	21.9
Non-western immigrant origin	1997	826	429	51.9	41.1	20.7
Non-western immigrant origin	1998	866	455	52.6	44.3	15.8
Non-western immigrant origin	1999	918	484	52.7	45.5	13.7
Non-western immigrant origin	2000	940	504	53.6	47.7	11.0
Non-western immigrant origin	2001	994	542	54.6	49.7	8.9
Non-western immigrant origin	2002	1049	576	54.9	49.1	10.5
Non-western immigrant origin	2003	1096	609	55.5	47.4	14.6
Non-western	2004	1131	627	55.5	46.5	16.1

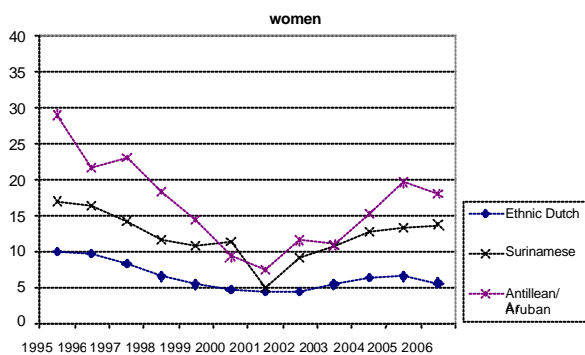
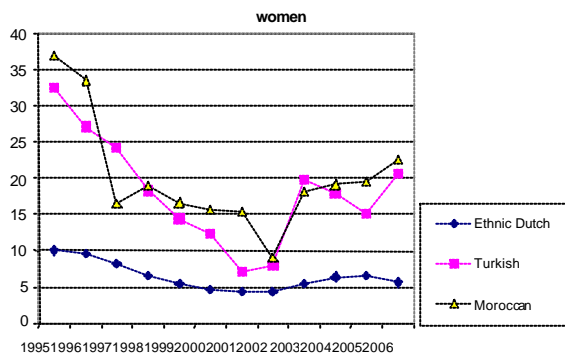
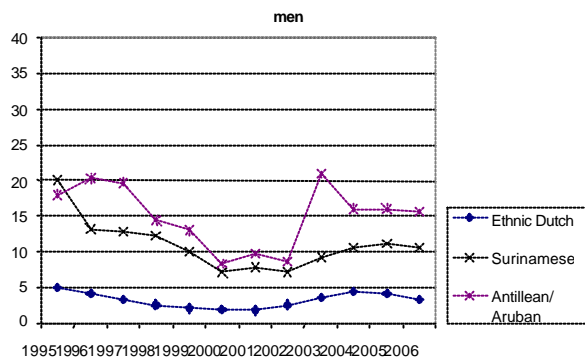
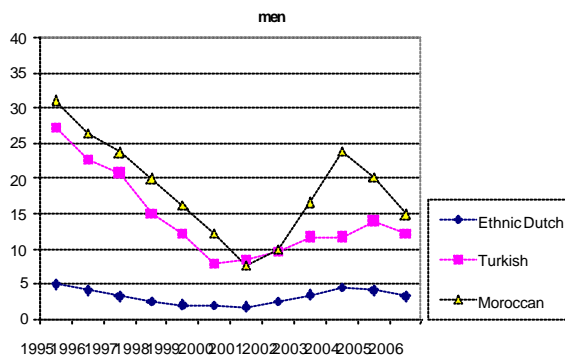
immigrant origin						
Non-western						
immigrant origin	2005	1157	650	56.2	46.9	16.4
Non-western						
immigrant origin	2006	1153	637	55.3	46.7	15.5

Labour market status of people of non-western immigrant origin

122. Unemployment among people of non-western immigrant origin is well above average. The four largest groups are Turkish, Moroccan, Surinamese and Antillean/Aruban. Trends in unemployment among these four groups, compared with ethnically Dutch people, are shown below. Unemployment among immigrants falls sharply when employment picks up, and total unemployment drops. When total unemployment increased after 2001, unemployment among immigrants soared again. Unemployment has fallen in the past two years. This is particularly evident among Moroccan men. The variability of the trend is no doubt partly due to the fact that the numbers involved are small.

Unemployment among people of ethnic Dutch and non-western immigrant origin, 1995-2006

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
men and women												
Ethnic Dutch	7.0	6.2	5.2	4.1	3.4	3.0	2.9	3.4	4.3	5.3	5.2	4.3
Turkish	28.8	24.0	21.8	16.0	12.9	9.1	8.0	9.2	14.3	13.9	14.4	15.1
Moroccan	32.0	28.0	21.7	19.6	16.3	13.0	10.0	9.7	17.1	22.1	19.9	17.2
Surinamese	19.0	14.6	13.5	11.9	10.4	9.1	6.5	8.1	10.0	11.7	12.2	12.1
Antillean/Aruban	23.0	20.8	21.2	16.0	13.6	8.7	8.7	9.9	16.4	15.7	17.6	16.8
men												
Ethnic Dutch	5.0	4.1	3.3	2.6	2.1	1.9	1.8	2.6	3.5	4.5	4.1	3.3
Turkish	27.2	22.6	20.8	15.0	12.2	7.9	8.4	9.7	11.7	11.7	14.0	12.1
Moroccan	31.0	26.4	23.7	19.9	16.1	12.1	7.7	10.0	16.6	23.8	20.1	14.9
Surinamese	20.0	13.2	12.8	12.2	10.1	7.1	7.9	7.1	9.3	10.6	11.2	10.6
Antillean/Aruban	18.0	20.3	19.7	14.4	13.0	8.3	9.7	8.6	20.9	16.0	16.0	15.6
women												
Ethnic Dutch	10.0	9.6	8.2	6.5	5.4	4.6	4.3	4.4	5.4	6.4	6.5	5.6
Turkish	32.5	27.1	24.3	18.3	14.4	12.3	7.1	8.0	19.8	17.8	15.0	20.6
Moroccan	37.0	33.5	16.5	18.9	16.6	15.6	15.4	9.1	18.1	19.1	19.5	22.6
Surinamese	17.0	16.3	14.2	11.6	10.7	11.3	5.0	9.1	10.8	12.8	13.2	13.7
Antillean/Aruban	29.0	21.6	23.0	18.2	14.4	9.3	7.5	11.5	10.9	15.2	19.6	18.0



Discrimination in the labour market: equal pay

123. Every two years the Labour Inspectorate surveys pay differentials between men and women, between full-time and part-time workers, and between people of ethnic Dutch and ethnic minority origin. The latest figures, based on 2004, were presented to the House of Representatives in October 2006. Over the years there has been little change in these figures:

Private sector	Uncorrected		Corrected	
	2002	2004	2002	2004
Men/women	22%	21%	7%	7%
Ethnic Dutch/ethnic minority	19%	21%	4%	5%
Full-/part-time < 12 hours a week	42%	43%	5%	2%
Full-/part-time > 12 hours a week	22%	21%	5%	4%

Public sector	Uncorrected		Corrected	
	2002	2004	2002	2004
Men/women	15%	14%	3%	4%
Full-/part-time < 12 hours a week	10%	14%	1%	6%
Full-/part-time > 12 hours a week	6%	8%	0%	1%

124. The Labour Inspectorate's findings show that the pay differential between people of ethnic Dutch and ethnic minority origin employed in the private sector in 2004 was 21% (uncorrected). The corrected figure reveals a 5% differential. The increase in the corrected pay differentials for full-/part-time workers < 12 hours a week is mainly due to the fact that the public-sector survey population had a very different make-up (more low-paid jobs, more women and fewer highly qualified jobs). In May 2006 Statistics Netherlands (CBS) published an analysis of the pay differentials for ethnic minority government employees. This showed that the uncorrected pay differential was 20%, and the corrected 4%.

125. Since the Labour Inspectorate's report was published in 2004 the Ministry of Social Affairs and Employment has taken action in several areas. A special equal pay working group *Gelijke beloning, dat werkt!* (Equal pay works!) was set up in December 2005, made up of representatives from all employees' and employers' associations, interest groups fighting for better working conditions and co-determination, and the Equal Treatment Commission. The working group adopted a bottom-up approach focusing on good practices. The dedicated website (www.gelijkloon.nl) provides employees and employers with information and tips about equal pay. The working group made recommendations to the Minister of Social Affairs and

Employment on equal pay policy for government, business, employers and employees and was disbanded in January 2007. The Minister will send his reaction to the House of Representatives.

126. The Dutch trade union confederation FNV has received a special grant for the CLOSE project, which aims to reduce the gender wage gap. In seven sectors with very different wage gaps (e.g. financial institutions, health care, industry, small businesses), pay will be examined for differences between men/women, full-/part-time workers, ethnic minority groups and various types of contracts. The final report will be published in May 2007.

127. The Labour Inspectorate has carried out an evaluation of the Equal Pay Quick Scan, which reviews pay for an entire organisation. Its verdict was that this can be a useful tool for detecting pay differentials. However, the Labour Inspectorate does not have the knowledge or the resources to actually use the Quick Scan and recommends simplifying it. This tool was developed by the Ministry of Social Affairs and Employment and the Equal Treatment Commission, but is now only used by the latter. The equal pay working group will develop a new, simplified version that can be used by employers without assistance from the Commission or the Ministry.

Discrimination on the basis of colour, race, national extraction and religion

128. In recent years the Dutch government has introduced a range of measures to combat discrimination in the labour market on the basis of race or ethnic origin, particularly in the area of recruitment and selection.

Psychological tests

129. The Ministry of Social Affairs and Employment gave the National Bureau against Racial Discrimination (LBR) a grant for developing a procedure for psychological testing of members of ethnic minorities, together with the Netherlands Institute of Psychologists. The procedure is intended to encourage the equal treatment of ethnic minorities, so that they have equal opportunities in job applications and in a future career within a company when psychological tests and/or structured questionnaires are used. The aim was also to compile a list of usable psychological tests for ethnic minorities, with recommendations for continued improvements. Two publications have been produced, one containing guidelines on the use of psychological tests for ethnic minorities, the other a list of usable psychological tests for ethnic minorities with

recommendations. On 23 August 2005 the guidelines on the use of psychological tests for ethnic minorities were presented to the House of Representatives.

Working towards integration in the workplace

130. In the first half of 2005 the Ministry of Social Affairs and Employment commissioned a survey on the removal of obstacles experienced by ethnic minorities in the labour market, such as discrimination. The survey was conducted in close collaboration with relevant civil society organisations, including ethnic minority organisations, employers' and employees' associations, the Equal Treatment Commission and anti-discrimination bureaus. Likewise in 2005 two conferences were organised on the theme of working towards integration in the workplace, in which the aforementioned organisations were very actively involved. Good practices were shared and reciprocal agreements were made aimed at removing obstacles in the labour market and combating discrimination.

Discriminatie? Bel gelijk! awareness-raising campaign

131. The awareness-raising campaign *Discriminatie? Bel gelijk!* (Discrimination? Call now!) was launched on 29 June 2004. It encouraged victims of discrimination and anyone with concerns about suspected discrimination to call a national helpline (0900 2 354 354) or visit a dedicated website (www.belgelijk.nl) for advice and information. The helpline puts callers in touch with a network of organisations specialising in equal treatment and non-discrimination issues. These anti-discrimination agencies work together to provide an appropriate problem-solving service and to exchange relevant expertise. They make sure telephone lines are manned and provide information and help where necessary. They can also refer callers to national, specialist agencies or to the Equal Treatment Commission. The project was implemented by RADAR (the Rotterdam Anti-Discrimination Action Council) via the National Federation of Anti-Discrimination Bureaus and Hotlines.

132. The initial campaign targeted discrimination on all the grounds listed in article 13 of the EC Treaty (sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation), as well as other areas, such as employment. It received 80% of its funding from the Community Action Programme to Combat Discrimination (article 13 of the EC Treaty) and the remaining 20% jointly from four ministries: Interior and Kingdom Relations; Health, Welfare and Sport; Justice (Immigration and Integration); and Social Affairs and Employment.

Discriminatie? Niet met mij! awareness-raising campaign

133. On 1 December 2004, *Discriminatie? Niet met mij* (Discrimination? Not against me!) succeeded the “Call now” campaign and is funded in exactly the same way as its predecessor. The new campaign is being implemented by a number of organisations, among them the National Bureau against Racial Discrimination, and is targeted mainly at people who are at risk of discrimination and unfair treatment. They are offered information on how to minimise the impact of discrimination in their daily lives and how to cope with both deliberate and unintentional discrimination. The campaign also targets the institutional setting in which discriminatory behaviour can occur. A brochure containing practical advice on how to deal with discrimination has been published. The first copy was presented to the State Secretary for Social Affairs and Employment on 31 January 2006. A reader advising organisations on how to tackle discrimination has also been published. At the request of Parliament, a publicity campaign will be launched in 2008 to coincide with the introduction of discrimination legislation in order to inform the public about how to report cases of discrimination and the support available for the victims.

Equal treatment at work

134. In 2005 the Ministry of Social Affairs and Employment published the results of a study on equal treatment at work (*Gelijke behandeling in bedrijf*), commissioned from IVA Beleidsonderzoek en Advies. The study focused on six different, but related topics: recruitment and selection, pre-employment medical examinations, affirmative action policy and equal treatment on the basis of age, disability or chronic illness, and sexual orientation. The reasons for commissioning the study included the entry into force of new equal treatment legislation (concerning discrimination on the basis of disability, chronic illness and age), warning signs about the worsening position of gays and lesbians in the workplace, the new regulations on pre-employment medical examinations, the demand for implementation of the Labour Foundation’s recommendations for scrupulous recruitment and selection procedures, and to raise the profile of the complaints office of the Dutch Association for Personnel Management and Organisation Development (NVP). The results of the study and a summary in English are to be found in Annex IV.

Measures designed to improve perceptions, combat discrimination and encourage employment

135. As part of the Social Cohesion Initiative, the Ministry of Social Affairs and Employment has agreed on a number of activities with the social partners, civil society organisations and

ethnic minority organisations. These activities are now all under way and are periodically monitored. If the methods developed prove to be effective, in due course the Ministry will look at how they can be incorporated into formal policy.

136. During the Work Summit on 1 December 2005, the government and the social partners entered into agreements on the subject of the employment of ethnic minorities. One of the points agreed upon was that the Labour Foundation would draw up recommendations for companies and the parties that negotiate collective agreements on corporate minority policies and how to combat discrimination (recruitment and selection, unequal treatment, diversity policy, role of employee participation bodies).

137. Partly as a result of the Work Summit, the social partners that consult within the Labour Foundation formulated recommendations aimed at increasing employment among ethnic minorities and enhancing mutual understanding and respect in the workplace. The recommendations covered the following topics:

- increasing social cohesion in the workplace
- multicultural personnel policy
- recruitment and selection and unequal treatment
- courses combining working and learning.

138. The Labour Foundation also updated the declaration on equal treatment in the labour market. Both the recommendations and the declaration are included in a document on cooperation in the workplace entitled *Samen werken op de vloer* (20 January 2006, publication number 2/06). It was also agreed with employers' and employees' associations that they would campaign for a national discrimination monitor for the labour market to be set up by the government. This has now been launched.

National discrimination monitor for the labour market

139. The first national discrimination monitor for the labour market was introduced on 15 December 2006 and the results will be presented in October 2007. Towards the end of 2008 a second monitor will be set up and the results are expected in October 2009.

140. The purpose of this monitor is to identify the nature and extent of discrimination in the labour market on the basis of race, religion and nationality and to pinpoint trends that emerge

over time. The underlying objectives are to effectively prevent and combat discrimination and to promote equal opportunities in the labour market for all. The monitor will help improve insight into the actual extent of discrimination in the Dutch labour market. The intention is to set up this kind of discrimination monitor every two years covering all aspects of the labour market (recruitment/selection, transfers, departures, etc.). The first part of the monitoring exercise is the registration/monitoring of discrimination complaints, reports and decisions that are known to the anti-discrimination bureaus, the Equal Treatment Commission, the social partners, the National Ombudsman, the police and the courts. The whole history of a complaint is documented, where possible. The second part of the exercise focuses on direct discrimination, statistical discrimination and indirect discrimination. The extent to which discrimination occurs in each of the various areas of the labour market is examined, with a breakdown by type of discrimination.

Table:

	2001	2002	2003	2004	2005
Employment rate:					
<i>Total (15-64 years)</i>	65.0	64.8	64.2	63.3	63.2
<i>Ethnic minorities</i>	49.7	49.1	47.4	46.5	46.9

Source: CBS

Table:

	2001	2002	2003	2004	2005
Unemployment rate:					
<i>Total (15-64 years)</i>	3.5	4.1	5.4	6.5	6.5
<i>Ethnic minorities</i>	8.9	10.4	14.6	16.1	16.4

Source: CBS

N.B. The figures are based on the definition of labour force used in the Netherlands, i.e. people who work, or are actively seeking to work, at least 12 hours a week. The "ethnic minorities" target group refers to "people of non-western immigrant origin", i.e. people of whom at least one parent was born in Turkey, Africa, Latin America or Asia, excluding Indonesia and Japan.

Public health insurance

141. Until 1 January 2006 the Netherlands had a compulsory public health insurance system for employees earning less than €33,000 p.a. Certain categories of benefit claimants were also

covered under this scheme. The partner and children of someone insured under the public health system were also entitled to cover, subject to certain conditions. Anyone not eligible for public health insurance had to have private health insurance.

142. The Health Insurance Act came into effect on 1 January 2006 and introduced a universal statutory insurance scheme. Under the Act, everyone living or working in the Netherlands is obliged to take out health insurance. Everyone insured under the Exceptional Medical Expenses Act is obliged to take out health insurance, i.e. people who are legally resident in the Netherlands or who live abroad and work in the Netherlands and pay Dutch income tax. There are a few exceptions to this basic rule.

143. Health insurance is an agreement governed by private law between a health insurance company and an individual. Nevertheless, the Dutch government has imposed a number of regulations to guarantee the social nature of the insurance. Health insurance companies cannot refuse to insure anyone under the new scheme and may not discriminate against anyone on the basis of personal characteristics when determining premiums. Furthermore, they must offer the standard health insurance package, which contains curative medically necessary care. The Exceptional Medical Expenses Act covers the costs of serious, long-term illness and infirmity.

144. Whether someone is insured under the Exceptional Medical Expenses Act or the Healthcare Insurance Act, no distinction is made on the basis of race, skin colour, origin, nationality or ethnicity.

145. The introduction of the Health Insurance Act has not altered the position of illegal immigrants with regard to medical care.

146. During the reporting period the main role of the Ministry of Health, Welfare and Sport in the area of "interculturalisation of health care" was to establish the required framework within which the parties involved can exercise their responsibility. These parties have now embarked on many initiatives and projects, which proves that the problems of ethnic minorities are being taken seriously. In 2003 the Netherlands Organisation for Health Research and Development (ZonMw) published a report entitled "Care for differences" (Zorg voor verschil), which describes 163 different projects in this field.

147. In support of the many activities undertaken, the Ministry of Health, Welfare and Sport is:
- a. awarding incentive grants, and
 - b. seeking advice on the structure and content of a monitor.

Re. a

The Minister of Health, Welfare and Sport has commissioned ZonMw to develop a practical programme with the aim of implementing available knowledge and expertise in the field of interculturalisation of health care in the Netherlands, focusing on both care providers and patients, and has set aside a budget for the period 2005-2007. The grant-subsidised projects will be completed by the end of 2007 and the Minister will then deliberate on the conclusions of the final report.

Re. b

The Minister of Health, Welfare and Sport also requested the advice of the National Institute for Public Health and the Environment (RIVM) regarding the structure and content of a monitor. The RIVM has advised the Minister to link an “ethnic minorities and health” monitor with the existing “health disparities” monitor, so as to be able to include specific aspects relating to the health of people of immigrant origin. This monitor is also linked with the “youth health” and “public health” monitors, for which all Dutch municipalities provide data. This procedure will ensure that the health status of ethnic minorities in the Netherlands is fully monitored.

148. At the Minister’s request, the RIVM has also compiled two fact sheets containing details of the available literature and current information about (1) the use of healthcare services by ethnic minorities and (2) their health status. These show that new information about the use of healthcare services by ethnic minorities in the Netherlands reinforces the impression that they tend to make less use of these services than ethnic Dutch people, although the picture does vary. Another point worth highlighting is the fact that ethnic minorities use fewer medicines than people of ethnic Dutch origin, whereas previous studies have often suggested they use more. Fortunately, the studies also indicate that ethnic minorities have ready access to GPs and medical specialists in the Netherlands.

Early childhood education

149. Early childhood is a vital stage in a child’s development. It is important for children to get off to a good start if they are to develop their full potential, complete their schooling successfully

and play a useful role in society as adults. Policies designed to identify and tackle real or potential disadvantages suffered by children at a young age have high priority and in recent years the government has allocated a substantial budget in this area, amounting to €170 million in 2006. The aim is that, by 2010, about 70% of disadvantaged children will be able to benefit from early childhood education. The ultimate goal is to reach the target group as a whole and offer them the best possible chance of development with a view to substantially reducing the language and development deficiencies they have when they start school. The target group comprises some 200,000 at-risk youngsters aged between 2 and 5 and includes children from ethnic minority groups as well as ethnic Dutch children with poorly educated parents. An analysis will be made of what measures can be taken to ensure that all children in the target group are reached, how real or potential development deficiencies can be identified at a very young age and how parents can then be motivated to allow their child to benefit from some sort of pre-school provision, such as playgroups or childcare facilities. The aim is to offer a comprehensive range of options by liaising with – at the very least – health clinics, playgroups and primary schools.

Access to public places and/or public services

150. During the reporting period the former Minister for Immigration and Integration formulated a policy to combat discrimination in the nightlife industry, e.g. in clubs and bars. This policy – focusing on combating discrimination against young people – was welcomed by Parliament, local authorities, young people and owners of nightlife businesses. A number of projects have since received grants to counter discriminatory admission policies of clubs and bars. One of these is the Rotterdam Door Policy Panel, established in 2003/2004. The panel, consisting of representatives from the local anti-discrimination bureau, the City of Rotterdam, the police and local club owners, provides a forum for young people to air their complaints about clubs' door policies. Several other cities have followed Rotterdam's example by setting up their own Door Policy Panel. In 2005 a conference was organised for owners of places of entertainment with the aim of sharing information and best practices. The policy has increased bar and club owners' awareness of the part they play in combating racism. The industry has introduced a code of conduct and is actively involved in the panels.

D. ARTICLE 6

Statistical data on complaints, charges and judicial decisions relating to acts of racism

151. In March 2007 the National Discrimination Expertise Centre reached the following conclusions on the basis of data gathered from the discrimination registration system.

The Public Prosecution Service

152. In 2002 a total of 242 offences of discrimination (offences under articles 137(c) to 137(g) and 429quater of the Criminal Code) were reported to the Public Prosecution Service (OM). The equivalent figures in 2003, 2004, 2005 and 2006 were 204, 214, 214 and 246 respectively. In 2002, 2003, 2004, 2005 and 2006 the Service took decisions on whether or not to prosecute in 281, 236, 223, 250 and 308 of these cases respectively. A great majority of the cases (79% in 2002, 75% in 2003, 77% in 2004, 69% in 2005 and 76% in 2006) involved deliberately insulting a group of people (article 137(c)). Of the cases that were dealt with, 55%, 57%, 65%, 63% and 66% respectively resulted in a notice of summons and accusation, while 17%, 24%, 17%, 15% and 21% respectively resulted in an out of court settlement.

153. In 2002 four infringements of article 429quater of the Criminal Code (discrimination in the exercise of an office, profession or business on the grounds of race, religion or belief, sex or sexual orientation) were reported to the Public Prosecution Service. The equivalent figures in 2003, 2004, 2005 and 2006 were 1, 0, 8 and 5 respectively. Twenty infringements of article 137 (g) (deliberate discrimination in the exercise of an office, profession or business on the grounds of race) were reported to the Service in 2002. The equivalent figures in 2003, 2004, 2005 and 2006 were 17, 5, 9 and 10 respectively. Two cases of assisting discriminatory activities were reported in the years 2002 and 2005, while one such case was reported in the years 2003 and 2006. In 2004 no infringements of article 137 (f) were reported. Between 2002 and 2006, the number of cases of dissemination of discriminatory utterances (art. 137 (e)) reported each year was 3, 13, 15, 10 and 25 respectively. Finally, 22 cases of infringement of article 137 (d) (incitement to discrimination) were reported in 2002, while the equivalent numbers in the following years up to 2006 were 18, 29, 46 and 18 respectively.

Table 1

Reports per article	Year 2002	Year 2003	Year 2004	Year 2005	Year 2006		Year 2002	Year 2003	Year 2004	Year 2005	Year 2006
137c	191	154	165	166	187		79%	75%	77%	69%	76%
137d	22	18	29	46	18		9%	9%	14%	19%	7%

137e	3	13	15	10	25		1%	6%	7%	4%	10%
137f	2	1	0	2	1		1%	1%	0%	1%	0%
137g	20	17	5	9	10		8%	8%	2%	4%	4%
429quater	4	1	0	8	5		2%	1%	0%	3%	2%
Total	242	204	214	241	246		100%	100%	100%	100%	100%

Specified according to grounds of discrimination:

Table 2

GROUND	Year	Year	Year	Year	Year		Year	Year	Year	Year	Year
	2002	2003	2004	2005	2006		2002	2003	2004	2005	2006
Race	94	95	92	128	179		39%	47%	43%	46%	55%
Anti-Semitism	60	50	58	65	108		25%	25%	27%	23%	33%
Religion/belief	3	8	9	18	18		1%	4%	4%	6%	6%
Sexual orientation	6	3	5	7	7		2%	1%	2%	3%	2%
Sex	0	0	1	1	0		0%	0%	0%	0%	0%
Disability*					1						0%
More than one ground**	54	24	35				22%	12%	16%		
Other grounds	10	5	10	58	0		4%	2%	5%	21%	0%
Grounds unknown	15	19	4	3	10		6%	9%	2%	1%	3%
Total	242	204	214	280	323		100%	100%	100%	100%	100%

* Incorporated as a ground in the legislation in 2006

** Reports up to 2004 showed that there were often several grounds on which discrimination had taken place. For example, a person may insult a group of people on account of their race and sexual orientation. From 2005 onwards, each separate ground has been counted in cases involving several grounds (up to a maximum of three grounds per offence), which produces a more accurate distribution over the various grounds. As a result, the total number of grounds has since 2005 been higher than the total number of offences. A comparison with previous years can thus only be made on the basis of percentages. In 2006, for example, 323 grounds were found in 246 cases.

Table 3

Disposal by the Public Prosecution Service per article	Year	Year	Year	Year	Year		Year	Year	Year	Year	Year
	2002	2003	2004	2005	2006		2002	2003	2004	2005	2006
137c	223	188	182	177	227		79%	80%	82%	71%	74%
137d	28	13	23	49	32		10%	6%	10%	20%	10%
137e	3	15	12	12	23		1%	6%	5%	5%	7%
137f	10	0	0	2	1		4%	0%	0%	1%	0%
137g	13	20	5	3	19		5%	8%	2%	1%	6%
429quater	4	0	1	7	6		1%	0%	0%	3%	2%
Total	281	236	223	250	308		100%	100%	100%	100%	100%

Cases disposed of by the courts

154. The courts disposed of 118 cases involving charges of discrimination in 2002, 128 in 2003, 125 in 2004, 148 in 2005 and 186 in 2006. In this connection, it should be remembered that the accused may have been charged with other offences besides discrimination, as can be seen from the following examples.

- (a) In the 118 cases disposed of in 2002, the accused was found guilty in 96 cases and acquitted in 15; in 1 case the Public Prosecution Service's case was declared inadmissible, and in another the notice of summons and accusation was declared invalid.
- (b) In 2003 the accused was found guilty in 111 cases and acquitted in 12; in 1 case the Public Prosecution Service's case was declared inadmissible.
- (c) In 2004 the accused was found guilty in 112 cases and acquitted in 8.
- (d) In 2005 the accused was found guilty in 132 cases and acquitted in 10.
- (e) In 2006 the accused was found guilty in 157 cases and acquitted in 17; in 3 cases the notice of summons and accusation was declared invalid.

Table 4

Disposal by the courts	Year	Year	Year	Year	Year		Year	Year	Year	Year	Year
	2002	2003	2004	2005	2006		2002	2003	2004	2005	2006
Conviction	94	110	111	131	153		79%	86%	89%	89%	82%
Acquittal	15	12	8	10	17		13%	9%	6%	7%	9%
Summons invalid	1	0	0	0	3		2%	0%	0%	0%	2%
OM inadmissible	1	1	0	0	0		1%	1%	0%	0%	0%
Acquittal on a point of law	0	0	0	0	0		0%	0%	0%	0%	0%
Conviction without imposition of a penalty	2	1	1	1	4		1%	1%	1%	1%	2%
Unknown	5	4	5	6	9		4%	3%	4%	4%	5%
Total	118	128	125	148	186		100%	100%	100%	100%	100%

155. The Netherlands pursues an active policy with regard to investigating cases of discrimination (see the 2003 Discrimination Instructions of the Board of Procurators General). This entails that a criminal investigation when incidents are reported but also when a public prosecutor learns of an infringement of articles 137c to 137g or article 429quater of the Criminal Code in some other way, for example from local crime statistics supplied by the police, the Public Prosecution Service and the local antidiscrimination bureau. The public prosecutor then decides on the basis of the public interest and the circumstances of the case whether a criminal investigation would be appropriate.

156. The Ministry of Justice, the Public Prosecution Service and the police have in recent years intensified the use of the criminal justice system to tackle discrimination. This has resulted in the following policy measures:

1. A policy letter on antidiscrimination and law enforcement of November 2005, including the results of the Public Prosecution Service's study of dropped charges and of the introduction of a statutory prohibition of structural forms of discrimination. Penalties for structural forms of discrimination have been increased. The penalties for systematically and deliberately insulting people on grounds of race, religion, belief or sexual orientation and for systematic incitement to discrimination have been doubled to two years' imprisonment.

2. Public Prosecution Service: Outlook 2010

The OM has included the issue of discrimination in its multi-year plan Outlook 2010, as one of the six new priorities that it intends to tackle on a systematic basis. The focus in tackling discrimination will be on establishing antidiscrimination support centres at each of the OM's eleven regional public prosecutor's offices. The public prosecutor with responsibility for discrimination cases at the regional public prosecutor's office will carry out activities for that regional office and any local prosecutors' offices in the region. Concentrating antidiscrimination efforts in the regional public prosecutor's offices should increase quality and efficiency and improve and ensure continuity. A substantial investment will be made in training public prosecutors specialising in discrimination, largely by means of specifically tailored courses and publication of a handbook on discrimination. The handbook, drafted by the OM to increase public prosecutors' and prosecutor's clerks' expertise in the field of discrimination, was published on 1 November 2006.

3. National Framework for the Dutch Police

On 9 October 2006 the Minister of Justice, the Minister of the Interior & Kingdom Relations and the chair of the Board of Regional Police Force Managers signed the National Framework for the Dutch Police in 2007. The National Framework includes commitments on how the police will combat discrimination. More specifically, the regional forces agreed to regularly share information on patterns of discrimination-related crime with the Public Prosecution Service, local authorities and other relevant partners. They will also implement the nine preconditions for combating discrimination that the Board of Chief Commissioners laid down in January 2004. This is not the exclusive responsibility of the police; the Ministers will also encourage local authorities, the Public Prosecution Service and other relevant partners to work closely together.

4. WODC investigates sentencing in discrimination cases

The Minister of Justice has commissioned a study by the Research and Documentation Centre (WODC) to ascertain the effectiveness of using the criminal law to tackle occasional discrimination. The question being considered is: in view of the necessity of effectively combating and preventing occasional discrimination, how adequate are the existing sentencing provisions and their application by the courts in cases of occasional, specific and criminal discrimination? The report is expected in the summer of 2007.

157. Additionally, the following measures have been taken either by the Public Prosecution Service or with its involvement.

Study of prosecution decisions

158. In August 2005 the Public Prosecution Service carried out a study of the reasons for deciding not to prosecute in cases of discrimination and racism, whether on grounds of lack of evidence or policy considerations. A study of the files revealed that in the majority of cases the OM acts with due care and applies the correct criteria in deciding whether or not to prosecute.

159. The study contains the following conclusions and recommendations:

- it is necessary to apply the Instructions on prosecution decisions correctly and critically;
- a review of the Instructions on prosecution decisions would be welcome;
- the OM should step up victim support measures in the context of discrimination cases;
- the OM should ensure that the period required to process discrimination cases within the Service is more closely monitored.

160. The Board of Procurators General has brought the study to the notice of the chief public prosecutors and public prosecutors responsible for discrimination cases with the request to take on board the conclusions and recommendations.

Results of the evaluation of the Discrimination Instructions

161. At the end of 2006, the Public Prosecution Service evaluated, in connection with the adoption of new Discrimination Instructions, the Instructions that would be in force up to 31 March 2007. This evaluation was carried out in consultation with the police, the National Bureau against Racial Discrimination and the antidiscrimination bureaus. The Discrimination Instructions relate to:

- coordination between the OM, the authorities, the police and the antidiscrimination bureaus;
- the procedure for reporting incidents and making complaints concerning discrimination;
- the prosecution of violations of the discrimination provisions;
- the approach adopted towards people reporting discrimination or victims (i.e. the injured party, as defined in article 51 of the Code of Criminal Procedure);
- feedback on the disposal of cases to the police and the antidiscrimination bureaus.

The Conference on a Joint Approach to Discrimination

162. The government considers effective cooperation between the partners in the system of vital importance to the joint approach to tackling discrimination. The agreement on cooperation is also laid down in the 2007 National Framework for the Dutch Police. Additionally, in collaboration with the OM and the police, the Ministries of Justice and of the Interior organised a Conference on the joint discrimination approach in June 2007.

E. ARTICLE 7

Sport and minorities

163. The policy document entitled "Time for Sport" was published in September 2005, followed by the implementation programme "Together for Sport" in June 2006. The national sports policy until 2010 is structured around three themes: "Exercise", "Participate" and "Perform".

164. The "Exercise" theme mainly concentrates on sport and exercise from a health point of view, to prevent obesity and chronic disorders such as diabetes and cardiovascular disease, with the focus on inactive people. This group is extremely varied and includes the elderly, people with physical or mental disabilities or a chronic disorder, but also people with different cultural traditions and customs. One way of devoting special attention to these target groups is through a small-scale community approach.

Abou RakRak in Delfshaven

Eight Moroccan women – first-generation immigrants, most of whom did not speak any Dutch – were taking language classes at a community centre. At a certain point they took up sport for one hour once a week. The women initially kept their normal attire on (long dresses and headscarves), but eventually brought along sports clothes. They have a lot of fun exercising. The group is now forty-strong and five new members join every week. The initiative is part of a self-help organisation called the Abou RakRak Foundation. According to the project leader, Ineke Geerdink: "It's a good idea to join in with activities that are already up and running, as it allows you to connect with women you wouldn't normally come into contact with."

Source: *Communities in Beweging*. Arnhem: NISB, 2004.

165. The “Participate” theme emphasises the value of sport as the ideal “meeting place” for everyone and uses it to achieve objectives in the area of education, parenting, social cohesion and integration. A disparity has been observed between Dutch people of immigrant origin and ethnic Dutch people in terms of their participation in sport. The Ministry of Health, Welfare and Sport and the Ministry of Justice have therefore jointly set up a large-scale programme to increase participation in sports among immigrant youths and parental involvement (from 70% to 85%). Sport is an excellent instrument for achieving integration and parenting objectives. Eleven municipalities and nine sports federations will select 500 sports clubs to implement the programme, while 50 will focus on youth care and reintegration processes.

ANNEX I

NATIONAL ACTION PLAN AGAINST RACISM

The follow-up to the UN World Conference against racism, racial discrimination, xenophobia, and related intolerance (WCAR) in Durban, South Africa 2001, from a Dutch perspective.

19 December 2003, Ministry of Justice

Foreword

“Racism is the worst disease from which the society of our nation suffers”

These are Albert Einstein’s words, spoken fifty years ago. But things have improved since then, some people say. “Racism is a thing of the past,” they claim, “it’s all about integration now.” But they’re wrong. Racism and discrimination still inspire alienation, fear and suspicion between people and population groups. There is still a need to combat racism. Not only because racism *in itself* is reprehensible, but also because combating it is a precondition for the proper functioning of a democratic constitutional state like ours, as is reflected in the first article of our Constitution.

For years, the Netherlands has worked to prevent and combat discrimination and racism, both nationally and internationally. Examples are the anti-discrimination policies, the equal treatment routes and the employment policy for ethnic minorities.¹ Of course, some things have changed since Einstein. Over the years, the face of discrimination has changed. It’s no longer just about the segregation between a white majority and a black minority. In today’s multi-ethnic society tensions exist between other groups that can be as evil as the ‘traditional’ forms of discrimination.

This National Action Plan against Racism (*Nationaal Actieplan tegen Racisme*) therefore aims mostly at bringing citizens closer together. It underlines the importance of society as a unit and aims to build bridges between individuals and groups. People must become aware of what they actually share. Only then will citizens with different backgrounds be able to learn more about each other and even understand each other.

Citizens should show each other respect in their daily interactions. Acknowledging this principle, however, is not enough. We will also need to stimulate citizens to realize this. It is not until they feel responsible and – even more importantly– behave responsibly, that we can successfully

¹ Refer amongst other things to the letter from the Minister with the letter on Integration policy New Style, Report Integration policy Ethnic Minorities 2003 and summary Ethnic Minorities 2003 (SCP), Parliamentary Document 2003-2004, 29203, no. 1 Second Chamber; Labour market policy Ethnic Minorities 2000-2003; Cabinet view regarding the SAMEN Act, Parliamentary Document 2003-2004, 27223, no. 48, Second Chamber, and the letter from the Ministers detailing a campaign for the emancipation and integration of women and girls from ethnic minorities, Parliamentary Document 2003-2004, 29203, no. 3 Second Chamber.

combat discrimination. This is not just a task for the central government. Local governments, social organisations, employers, schools, etcetera, must also make an effort in this.

The National Action Plan against Racism promotes a joint approach to, and handling of, urgent social issues. Three themes are central in this:

- living environment;
- awareness-raising; and
- equal treatment in the labour market.

In developing this Action plan, the government actively liaised and exchanged ideas with a wide range of institutions. It is partly for this reason that I am confident that this effort will lead to the effective combating of racism across our society.

It is my pleasure to present to you the National Action Plan against Racism. I believe it's come not a moment too soon. Our multi-ethnic society is a fact. It is time to approach each other with respect and responsibility. This leaves no room for discrimination based on race or on any other ground. The fight against racism is vital for all of us, both now and in the future.

The Minister for Immigration and Integration

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1. STARTING POINTS

1.1 Framework of Dutch anti-racism policy

In the summer of 2001, at the United Nations World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR) held in Durban (South Africa), a declaration and action programme were adopted to combat the afore-mentioned forms of discrimination. At the conference, the participating countries, including the Netherlands, undertook to draft a national action plan against racism. The WCAR focused on a large area and covered also topics relating to race or ethnic heritage such as immigrant integration, gender-related matters, the promotion of diversity and eradication of poverty.

The government believes that discrimination and racism can take many forms, ranging from evident discrimination on the basis of appearance, to subtle discrimination in the form of unequal treatment. In between is a spectrum of social mechanisms that, directly or indirectly, desired or not, can result in citizens being treated differently for no justifiable reason. Unequal treatment is unacceptable because it is contrary to the principles of Dutch legal order and, moreover, undermines respectful interaction between the citizens of this country.

Tackling racism and discrimination is no simple task. It is not a question of a mere prohibitory provision and maintaining legal order, but is also clearly a social development process. The Dutch population is rapidly evolving from an ethnically homogenous group to an ethnically diverse one. This gives rise to social tensions. New citizens import new cultural patterns and the native population feels less secure in its 'own' identity. Fear of the other, insecurity about the future, competition in claiming social commodities, rejection of other views, can all fuel generalisations, prejudices, open criticism or hatred of persons or groups with another culture, religion, convictions, etc.

When tackling xenophobia, prejudice and discrimination, until recently the emphasis was primarily fixed on discrimination against persons of ethnic groups by the autochthonous majority. However, it has since become clear that the native population is not solely

responsible for discrimination. Incidents between different population groups, homosexual teachers taunted by pupils and disruptions during history lessons point out that the arena of prejudice and discrimination has considerably broadened over recent years. Discrimination has long ceased to be something visited on a black minority by a white majority. The multi-ethnic community brings with it tensions between groups that can be just as virulent as the 'traditional' forms of discrimination. Views of discrimination have gathered pace against the backdrop of increased multi-ethnic contrasts. They have led to a sharper social debate in which the principle of anti-discrimination is sometimes railroaded by freedom of speech and freedom of worship. Disposing of criticism or holding back a debate by invoking discrimination is no longer acceptable.

Numerous international and national developments can be indicated as responsible for engendering tensions between various social groups. At international level we all recall the attacks of September 11 2001 in New York and Washington, the war against Iraq and the Israeli-Palestinian conflict. But at national level too, the run-up to the 2002 elections, the pronouncements made by Imams about homosexuality and the rise of the Arab European League and the publicity surrounding the behaviour of some Moroccan youths are all factors that have contributed to hardening the social climate. The social debate that ensued indicates that a strong need has arisen to emphasise compliance with laws, rules and behavioural conduct that apply to everyone here. The changing patterns of prejudice and discrimination call for a changing approach to tackling discrimination. The government considers it crucial that society remains unified and bridges must be built. Emphasis should come to be placed on things that the various groups have in common. What is needed is mutual recognition that, despite the undeniable differences between these groups, each is a citizen of the same society. If prejudice and discrimination are to be countered, it is imperative to acknowledge that this shared citizenship embraces acceptance of fundamental, common, values and norms. This is not just the responsibility of the central government but also, and primarily, of the citizens themselves, lower government, employers, schools and social institutions. The general starting point here is that the realisation of full, shared citizenship is the best guarantee against prejudice and discrimination. Raising awareness of the inadmissibility of discrimination, at all levels of society, the recognition of personal prejudices and discriminatory conduct and the necessity of mutual respect are vital here.

Besides this general starting point, Dutch policy is geared to protecting and reinforcing the position of individuals belonging to groups in society that are, or are at risk of becoming, the victim of discrimination and intolerance. Discrimination no longer refers solely to ethnic heritage – it may refer also to gender, sexual orientation, age or handicap. The principle of non-discrimination as embedded in article 1 of the Dutch Constitution and elaborated in civil law (including the Equal Treatment Act or *Algemene wet gelijke behandeling*) and criminal law stipulations (criminal acts of a discriminatory nature are prohibited in articles 137 c through 137g and article 429 quater Dutch Criminal Code or *Wetboek van Strafrecht*). On 9 October 2003, the bill to amend the Equal Treatment Act and other acts altered to implement Directive 2000/43/EC (implementing the principle of equal treatment between persons irrespective of racial or ethnic origin) and Directive 2000/78/EC (establishing a general framework for equal treatment in employment and occupation) was adopted by the Dutch Lower House. This bill has now been introduced to the Upper House. This alteration and the bill to introduce stiffer sanctions for structural forms of discrimination (K II 28 7792) approved by the Upper House on 18 November 2003 are examples of supplements to and improvements of anti-discrimination legislation.

With this legislative framework the Netherlands meets the main points of the criteria laid down as a result of the WCAR. The National Platform for consultation and collaboration against Racism and Discrimination (*Nationaal Platform voor overleg en samenwerking tegen Racisme en Discriminatie*, NPRD) confirms that in its advice, and additionally states that:

“Non-discrimination and the principle of equality are widely supported in the Netherlands and contribute to the social recognition of human rights and human dignity. They also provide a benchmarking framework for our dynamic and multi-ethnic and multi-cultural society.”

However, standard-setting is not sufficient; as the NPRD rightly noted, a different mentality is required:

“The diversity in our society not only gives rise to great achievements, but generates problems. However, what must be guarded against at present is placing too great an emphasis on the problems which threatens to drive the achievements into the background.

This leaves unchanged the fact that the difficulties need to be tackled and call for a clear, broad, social effort and approach (...) The social debate/social dialogue must be stimulated, not as a polemic in the media, but as a way of bringing people closer together.”

1.2 Structure of the National Action Plan against Racism

Creation of the National Action Plan against Racism

The WCAR in Durban led to an action programme of 219 points. In the Netherlands, at the end of 2002, using a format designed by the Minister for Immigration and Integration, various organisations were requested to indicate whether they thought the Dutch government was already meeting the various Durban Action Points, or how they thought the Netherlands could meet the requirements in other ways. The purpose of this was to make an inventory of where the action points of the ultimate National Action Plan against Racism should be directed, according to the field. The National Platform for consultation and collaboration against Racism and Discrimination (NPRD) then provided recommendations, concentrating on the themes of the labour market, education and neighbourhood. The Dutch National Bureau against Racial Discrimination (*Landelijk Bureau ter bestrijding van Rassendiscriminatie*, LBR) organised a workshop on the labour market, education and the legacy of slavery prompted by the standpoints of various civil organisations it had gathered together. The format of collated standpoints and a report of the workshops were then presented to the Minister for Immigration and Integration. The national dialogue structure with minorities (*Landelijk Overleg Minderheden*, LOM), in which seven minority groups are represented, advised on a number of concrete Durban action points. These points are primarily focused at improving the position of ethnic minorities in the labour market, and at the participation of minorities.

The Dutch statutory framework is in line with the main points of the criteria laid down as a result of the WCAR. Together with the given that the Netherlands has an active anti-racism/anti-discrimination arena in which a number of sound initiatives are taken and the structure of the said contributions from the NPRD, the non-governmental organisations gathered by the LBR and the LOM, have resulted in the following structure of the Dutch Action Plan against Racism.

When drafting the Dutch action plan, it was decided not to adhere to the structure of the Durban action points. As stated in paragraph 1.1 the changing patterns of prejudice and discrimination call for a different approach. In the action plan, these are partly found in a joint approach where the focus lies on tackling racism at those places in society where most attention is needed. The result is an action spanning:

three intrinsic themes;

- living environment
- awareness-raising
- equal treatment on the labour market,

and **one organisational** theme;

- infrastructure.

Delineation

The action plan focuses on preventing and combating discrimination on the grounds of race, ethnic origin and related forms of intolerance.

In chapter 2 on living environment, the emphasis lies on interaction between people. The focus is on taking a joint approach to dealing with problems between various population groups and individuals in a neighbourhood, district and at school. In awareness-raising (chapter 3) the starting point is that transferring knowledge on racism and values via schools, upbringing, education, awareness-raising and publicity campaigns and so on, is an important tool in eradicating prejudices and expressions of racism and discrimination. Chapter 4, which deals with equal treatment in the labour market, underlines the importance of promoting equal treatment and combating discrimination for ethnic minorities wishing to enter the labour market.

Finally, chapter 5, infrastructure, indicates that the wide range of organisations, agencies and the individuals involved in tackling racism, both within and outside the government, should put each others expertise and networks to more efficient use. Simplification and collaboration are pivotal to this. The action points that are ultimately selected in this action plan were also chosen on the basis of short-term feasibility, practical and financial workability, policy priorities,

alignment with existing policy plans and projects, scope for collaboration and the anticipated commitment. A compact overview of all the action points contained in the various chapters is given in chapter 6.

1.3 A joint approach

In the realisation that tackling racism and discrimination should be socially anchored, the government is directing this action plan at all the actors that could contribute to its realisation. This ranges from government bodies (state, province, municipality), the Public Prosecution Department, the police, anti-racism organisations, non governmental organisations, the business sector, trade unions and employers' organisations, ethnic minority organisations and community groups involved in the social life of a community: school, work, the neighbourhood, the sports club, the local shop, internet traffic, healthcare agencies and so on, and the citizen. Racism and discrimination can only be successfully tackled when everyone accepts a share of responsibility in the process, and takes concrete action.

The national coordination of this action plan is the responsibility of the Minister for Immigration and Integration. It will be monitored in consultation with the interdepartmental coordination committee on ethnic minority integration policy (ICIM) and via the governmental anti-discrimination consultation (ADOR). Both bodies will evaluate the implementation of the action plan yearly. The national platform for consultation and collaboration against racism and discrimination (NPRD) will follow the development and implementation of the policy plans and will furnish the government with advice, solicited or unsolicited.

2. LIVING ENVIRONMENT

2.1. General starting points

As the national platform for consultation and collaboration against racism and discrimination (NPRD) indicates in its recommendations:

“discrimination is no longer simply the domination of a black minority by a white majority, but in some neighbourhoods even the reverse is evident. Discrimination is often the result of new contrasts, manifest in the attitudes of certain sections of ethnic cultural groups towards homosexuals, non-Muslims versus Muslims and conflicts between ethnic cultural groups.”

The tone of social debate has hardened and polarised; incidents and clashes primarily involving youth groups are increasingly used as a standard against which entire population groups are measured. Tensions such as these surface in the living environment. People live side by side, meet in the street, at school, when they go out, and during sporting activities. In its 2002 yearly report, the National Federation of local and regional anti-discrimination bureaus (*Landelijke Vereniging van antidiscriminatiebureaus*, LVADB) stated that *“complaints of discrimination in the neighbourhood or district largely reflect social relations”* and that *“the caution previously aspired to seems to have given way to what is classed as freedom of expression.”* That year, complaints received by the anti-discrimination bureaus in 2002 involving discrimination in the ‘neighbourhood or district’ exceeded for the first time complaints regarding the ‘labour market’.

The conclusions of the NPRD and the LVADBs must be taken seriously. For everyone living in the Netherlands, it must be clear that, even in “the public space” discrimination and therefore racism and related forms of intolerance are unacceptable. In this society, citizens must be able to live on an equal footing and in mutual respect. Everyone is entitled to be able to live, grow up, and relax in safety. Discrimination and related forms of intolerance undermine this safe living environment and must be tackled at the level at which they are manifest – everyone’s immediate living environment.

The starting point here is that the actual efforts to combat discrimination at local level are a matter for the municipalities, the police and the Public Prosecutions Department. Where discrimination is linked to threats and violence, a rigorous approach is required with police action

and an active prosecution policy on the part of the Public Prosecutions Department. A sound but non-sanctioning approach on the part of the social side of the police (for instance as mediator in neighbourhood conflicts) is also essential. Much will depend on the responsibility taken by all citizens involved (native Dutch and members of ethnic communities alike) and their willingness to enter into dialogue in their own and others' interests, to look at the situation from all angles and to arrive at a joint solution. The effort of welfare workers, housing federations, ethnic minority organisations, sports clubs, schools, health care facilities and the catering industry is also required.

Discrimination promotes segregation and is an obstacle to integration. Where people strive to be fully integrated members of society and are presented with difficulties because they are discriminated against, they should know where to turn with complaints and how their problem can be adequately dealt with. Municipalities and provinces must be able to respond to these warning signs and address them. This means that they should be in close contact with bodies that pick up these signals the quickest. Here lies an important role for anti-discrimination bureaus, ethnic minority organisations, national expertise centres and other bodies. These organisations are familiar with the local situation, they have contacts and knowledge to support the citizens and the local government in tackling discrimination. To successfully assure local integration, municipalities and provinces should concentrate on tackling discrimination in their policies. The NPRD can make a valuable contribution to the further elaboration of this joint approach at local level.

2.2 Promoting a joint approach to create a safe and pleasant living environment

Activities against racism

At various levels (national, regional and local), successful initiatives to tackle discrimination in the living environment have been taken. Best practices will be exchanged at the initiative of the government and, for instance the LVADB's and the LBR, and will be placed online (for example on KIEM, the online resource on integration policy and ethnic minorities). See also chapter 3.

The NPRD will endeavour to have local platforms set up in four cities, aimed at combating racism, discrimination and related intolerance. These platforms could represent ethnic minority organisations, anti-discrimination organisations, employers in the (non) profit sector, works

councils representatives and trade union representatives, local business branches, and chambers of commerce. The NPRD will also have a booklet developed on practical tips for tackling discrimination in the community. People closely involved in community work, whether professionally or as volunteers, will be informed about and trained in dealing with discrimination in the community in a number of study days. The Minister for Immigration and Integration will provide this campaign with financial support. Through administrative consultations with the municipalities and provinces, the Minister for Immigration and Integration will indicate that, if local integration is to be successful, they will similarly need to include combating discrimination and racism as part of their policy.

Discrimination relating to admission to bars and clubs is common. With finance from the municipality of Rotterdam, the Rotterdam Rijnmond police and the Minister for Immigration and Integration, a panel (known as the Deurbeleid panel) has been set up in Rotterdam to tackle nightclub door policy and discrimination. As a result of the collaboration between the municipality of Rotterdam, the Rijnmond police, the catering association (*Koninklijke Horeca Nederland*), the national youth council (*Nationale Jeugdraad*) and the anti-discrimination council in Rotterdam (*Rotterdamse Antidiscriminatie Raad, RADAR*) a door policy covenant has been agreed, signed by the market leaders in Rotterdam's night life. The parties to the collaboration comprise a panel that evaluates the door policy of discotheques wanting to join this covenant. Following on from this successful project, RADAR developed two projects, one on the "door policy panel" ("Panel deurbeleid") and "Clubfacts". These projects should result in the initiative being picked up by cities other than Rotterdam. A start has already been made: in Den Bosch and Dordrecht, bar and club covenants are in preparation and in Maastricht and Assen, bar and club covenants have been concluded with the help of the Public Prosecutions Department. This RADAR initiative is financially supported by the Minister for Immigration and Integration.

3. AWARENESS-RAISING

3.1 General starting points

Every citizen can be expected to behave respectfully and to exhibit socially responsible conduct. This means that threats and racist comments on the internet, media and elsewhere must be tackled. All sections of society must be aware that discrimination is not to be tolerated, and recognise their own prejudices and discriminatory behaviour; this is and continues to be essential in overcoming these expressions of discrimination and related intolerance. Mutual respect is likewise required for peaceful co-existence. This requires that mutual citizenship involves the acceptance of basic, shared values and norms. An important tool in realising this is knowledge transfer: not specifically knowledge about incidents of a racial and discriminatory nature but mainly about the norms and values that prevail here, and knowledge of world history (including the history of slavery, World War II, the persecution of the Jews and the role of Morocco against Germany). This knowledge transfer can be realised in a variety of ways: through schools, upbringing, education, awareness-raising and publicity campaigns, workplace training programmes, handbooks and so on. Acquiring skills is also an important means of tackling racism.

The government adopts a reserved stance towards institutions which are responsible for independently countering discrimination and racism. If necessary, it underlines the necessity of extra attention for a specific discrimination related theme for other organisations. In this regard, the Minister of Education, Culture and Science sent a letter to the educational inspectorate asking to step up efforts to guard against anti-Semitism in education. Educational activities and awareness-raising campaigns are supported where possible by the central government. The government can also provide stimulus by further addressing a debate on a specific theme. However, giving such a debate content is not always simple, certainly when various civil rights are at stake. Civil rights such as banning discrimination, freedom of expression and freedom of worship can be at odds. Against this background the cabinet is working on a paper on civil rights in a pluriform society.

Schools have a key educational responsibility in awareness-raising. The school is where, from an early age, pupils acquire social skills necessary for the communication and interaction between citizens in a multi-ethnic society. Legislation on education stipulates that schools must

prepare pupils for the multicultural society. This means that pupils in primary and secondary education must learn about their own and other cultures, the development of the multicultural society, similarities and differences between religious schools of thought in the Netherlands and aspects such as discrimination and intolerance. Attention for values and norms starts at school, with codes of conduct jointly determined by teachers, pupils and their parents. This attention promotes an active social attitude outside school: active citizenry. This is of crucial importance for a safe school. With this, the school is an important place to combat racism and similar forms of discrimination.

Anti-discrimination organisations also play an important role in increasing knowledge and awareness of the causes, manifestations and ways of tackling racism and intolerance. These organisations know what goes on in society and signal where and when specific topics merit extra attention. Initiatives such as School Without Racism (*School Zonder Racisme*), World School (*Wereldschool*) and information meetings for teachers on anti-Semitism and related forms of intolerance also ensure that education is supported. Initiatives to arrive at informative documents on racism and discrimination and information provision via the internet (such as the Kennisnet online resource on integration policy and ethnic minorities – KIEM – and the Tijm website) are welcomed by the government. Civil organisations and agencies can also initiate informational and awareness-raising campaigns to promote debate and dialogue. The EQUAL projects, “the Prize, the Code, the Monitor” (PCM) and “Towards a Workforce without Discrimination”, (TWWD) are all good examples (see chapter 4). The NPRD and the Institute of Multicultural Development (*instituut voor Multiculturele Ontwikkeling*, FORUM) occupy an important position in awareness-raising processes.

3.2 Eradicating prejudices, and expressions of racism and discrimination

Values and norms: citizenship

The Minister of Education, Culture and Science commissioned the KPC Group (formerly the Catholic pedagogic study centre) to support schools wishing to implement projects for active citizenship. This support not only comprises educational materials but money to put the project into operation. This school year, pilot projects on “citizenship internships” kicked off at ten secondary schools. The goal is to have these internships at a quarter of secondary schools by 2007. The Kennisnet schools will build a values and norms website as a means for exchanging good practical examples.

Knowledge of (Dutch) values and norms is also vital for new citizens. This similarly applies to knowledge of the system of Dutch government and history. In consultation with the Ministry of Justice, the Ministry of Education, Culture and Science has commissioned an evaluation of the citizenship module that is part of the integration procedure of newcomers to the Netherlands. The results, specifically in the area of values and norms, will be used to set new final attainment levels for this subject and to devise the new citizenship examinations.

The Minister for Immigration and Integration will further structure the concept “shared citizenship” in collaboration with various organisations, including FORUM. This will include organising public debates on the topic. In the booklet on renewed strategic vision (in Dutch: *Een vernieuwde strategische visie*), published by FORUM, it states that the concept of shared citizenship means that minorities actually participate in society, use the Dutch language, and accept basic Dutch values and norms.

It is vital that administrators (ministers, mayors and councillors) set an example by using clear language in their official capacity, avoiding anything that could be construed as discriminatory. The Minister for Immigration and Integration will therefore discuss this role model function in more detail in administrative consultations with municipalities and provinces.

History of slavery

Knowledge of the history of slavery and its legacy deserves a significant place within history teaching as knowledge of the past also contains knowledge of the present. Moreover, the history of slavery is part of Dutch history. For this reason, the Ministry of Education, Culture and Science is subsidising the National Institute for Dutch Slavery Past and Inheritance (*Nationaal Instituut Nederlands Slavernijverleden en –erfenis*, NINSEE) to gather, document and exhibit information on the history of slavery. In line with this, the *Stichting Leerplanontwikkeling* that develops teaching plans, is developing one on slavery, intended as a directional document for educational publishers. This core learning plan supplements the mixed media programme on the history of slavery (by Teleac/NOT and the Ministry of Education, Culture and Science).

Anti-discrimination course

The Minister for Immigration and Integration is subsidising the development of an anti-discrimination course. RADAR (the anti-discrimination council in Rotterdam) is developing this to

fill a number of voids that could contribute to promoting the quality of the work of the anti-discrimination bureaus. Several universities and colleges of higher education have introduced programmes of lessons but there is no uniform lesson structure or content. The goal is to present the course as a post higher vocational course module. The course is expected to have been developed by the summer of 2004.

Handbooks and the internet

The National Expertise Centre against Discrimination of the Public Prosecutions Department (*Landelijk Expertise Centrum Discriminatie*, LECD) is currently developing a handbook for members of the Public Prosecutions Department on expediency in criminal cases. The LECD is also setting up a discrimination database on Omnetnet, the intranet of the Public Prosecutions Department.

Publicity and awareness-raising campaigns

With a large national campaign, the NPRD will focus attention on the fact that racism and discrimination are structural problems within Dutch society, via social debate and dialogue. Various activities will be carried out on the themes of employment, education and the neighbourhood, and will include the setting up of local platforms to tackle racism, projects geared to conflict mediation within education and the development of a booklet with practical tips on dealing with discrimination in the community.

The Treaty of Amsterdam amending the Treaty on European Community contains a stipulation with anti-discrimination measures (article 13). This stipulation is further elaborated in two directives (Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin and Directive 2000/78/EC establishing a general framework for equal treatment in employment and occupation), also known as the article 13 directives. In the framework of implementing the article 13 directives and promoting information about and knowledge of equal opportunities in the Netherlands, an awareness-raising campaign will commence under the title "*Discriminatie? Bel gelijk!*" (which roughly translates as 'Discrimination? Phone us now!'). This campaign is financed from the subsidy from the 2001-2006 (European) Community Action programme to Combat Discrimination on the basis of EU article 13 and additional subsidy provided jointly by the Ministry of Justice, the Ministry of the Interior and Kingdom Relations, the Ministry of Health, Welfare and Sport and the Minister of Social Affairs and Employment. The National Federation of local and regional anti-discrimination

bureaus, in collaboration with the Dutch Equal Treatment Commission and the other national agencies in the field of equal treatment and non-discrimination will implement the campaign. The campaign will also make use of the facilities offered to (organisations within) Member States by the European awareness-raising campaign 'For diversity. Against discrimination'.

4. EQUAL TREATMENT IN THE LABOUR MARKET

4.1 General starting points: labour market policy

The anti-discrimination bureaus, reporting centres and Dutch Equal Treatment Commission regularly receive complaints about discrimination in the labour markets. These signals can not go ignored. Participation in the labour market is one of the most important integration tools. Mechanisms and structures that obstruct this should be identified and altered. Here, it is important that employees are given equal opportunities both during recruitment and selection and in staff retention and promotion.

In promoting equal treatment and countering discrimination, the Dutch government seeks to realise the entrance of ethnic minorities onto the labour market, with an eye to long-term participation in the labour market. The measures within this policy that are geared to improving the labour climate for ethnic minorities also contribute to the equal treatment of ethnic minorities. Supplementary measures specifically relating to ensuring the equal treatment of this group should be considered in addition to this. These measures can also be generic and thus relate to all grounds covered by equal opportunities legislation or specifically aimed solely at ethnic minorities.

Recent measures that have focused on improving the employment climate for ethnic minorities include the (temporary) SAMEN Act, intended to promote the employment of ethnic minorities, which will be discontinued as of 1 January 2004, and measures in various covenants with employers' organisations. In addition to promoting the inflow of ethnic minorities, these steps are also intended to promote multi-cultural personnel policy and intercultural management in businesses. Partly thanks to these measures, the position of ethnic minorities in the labour market has sharply improved since 1995. This does not diminish the fact that the percentage of unemployed persons of ethnic origin was still three times higher than that of natives (10% in 2002), and that further incentive policy is still required. Together with complaints of discrimination on the work floor, this given determines the agenda of the anti-discrimination policy on the labour market. In the first instance, these problems should be tackled within labour market policy for ethnic minorities by further stimulating specific measures that contribute to promoting an organisational culture that offers every employee equal opportunities. This also calls for attention for the position of black migrants and refugee women. The government does

not aim to achieve this with a raft of compulsory measures, but by appealing to employers and employees to act in their own interests, and to take responsibility themselves. The cabinet standpoint recently sent to the Lower House on the follow-up to the SAMEN Act and the plan of approach '*Emancipatie en integratie van vrouwen en meisjes uit etnische minderheden*' (which roughly translates as 'The emancipation and integration of women and girls of ethnic minorities') goes into this in more detail.

Additional measures in the field of equal treatment geared to raising the awareness of employers and employees of situations in the labour process where obstacles to equal treatment may arise and how they could be tackled have already been set in motion (see report integration policy ethnic minorities, RIEM 2003). An approach solely via intercultural management or diversity policy does not necessarily also lead to equal treatment. Better knowledge of legislation and the way in which this can be applied in a practical way by companies and organisations, is imperative. The 'Article 13' project of the Ministry of Social Affairs and Employment aims to address this by offering concrete instruments to employers and works councils (see also chapter 3). The EQUAL projects, "the Prize, the Code, the Monitor" (PCM) and "Towards a Workforce without Discrimination" (TWWD), that are subsidised by the Ministry of Social Affairs and Employment in practice focus on companies by tackling discrimination of ethnic minorities on the work floor by, among other things, stimulating the application of codes of conduct and by promoting networks of personnel in the business sector, aims that are expected to prevent and tackle discrimination in the work place (see also RIEM 2003).

Organisations of employers and trade unions acknowledge their responsibility. In recent years, they showed willingness to take measures to promote multicultural personnel policy and equal opportunities within businesses, among other things via the minorities agreements of the *Stichting van de Arbeid* (Joint Industrial Labour Council), and the covenants. By monitoring and signals from the field, the government keeps an eye on the effects of the measures. They are assisted in this by non-government organisations (such as the Dutch National Bureau against Racial Discrimination, or *LBR*, local anti-discrimination bureaus, and the Dutch Complaints Bureau for Discrimination on the Internet, or *MDI*) that make inventories of complaints, offer preventive information and safeguard compliance with norms and agreements. The effect of this constant coordination of norms and social effect means that anti-discrimination policy is topical and result-oriented. On the basis of the Dutch Equal Treatment Act (the AWGB), the Dutch Equal Treatment Commission has the legal power to decide in instances of equal treatment

issues. Besides adjudicating it also advises businesses on how to avoid future discrimination. The decisions have the necessary social impact, not least because of the preventive effects of the publication.

The regulations of the general and specific labour market policy similarly apply to the government. Policy relating to government personnel must also include safeguarding integrity. The citizen must be able to rest assured that the government works with due care and integrity. The government uses existing integrity codes or other codes of conduct as guidelines within other government sectors.

4.2 Supplementary policy to promote the equal treatment of ethnic minorities in the labour market

Measures to guarantee equal opportunities for the inflow, retention and promotion of employees, will also need to be developed and stimulated. Here, attention will also be given to gender mainstreaming.

Cabinet standpoint: follow-up of the SAMEN Act

In the cabinet standpoint on the SAMEN Act, measures are provided geared to using procedures for the inflow, retention and promotion of staff that offer personnel equal opportunities regardless of their ethnic origin, and which are 'equal treatment-guaranteed' wherever possible.

Psychological tests

At present, the Ministry of Social Affairs and Employment is exploring the potential of better safeguarding the equal treatment of ethnic minorities in procedures concerning the use and taking of psychological tests. Research conducted by the LBR and the NIP (*Netherlands Institute of Psychologists*) shows that in practice, the psychological tests used and procedures followed have room for improvement regarding objectively estimating the capacities and qualities of (potential) employees from ethnic backgrounds.

External working conditions policy

In the context of the external working conditions policy (*arbobeleid*) of the Ministry of Social Affairs and Employment, opportunities for encouraging parties to take appropriate action for a more effective working conditions provision of services to ethnic employees are currently being

assessed. The equal treatment principles will also be included in this. The aim is to publish a proposal for an approach to this specific aspect in the course of 2004. This was prompted by research carried out by IVA Tilburg/ FORUM. The research showed that a number of aspects of the working conditions infrastructure for the multi-ethnic society in the Netherlands could be improved. Improvements could be made regarding the level to which working conditions services respond adequately to the situation of employees from ethnic backgrounds, with whom they deal in practice.

Undesirable conduct in the work place

The conclusions of an expert meeting held in November 2003 and organised by the Ministry of Social Affairs and Employment on tackling undesirable conduct in the work place will act as input for the employment conditions policy for target groups. Given the relation to personnel shedding and the number of employees on disability benefits the goal of the expert meeting is to contribute to the development of more preventive policy directed at reducing the loss of employees from the workforce and the number of employees on disability benefit, by exchanging information and expertise on good practices with regard to desirable conduct. Undesirable conduct in the work place is understood to mean: bullying, discrimination, (sexual) intimidation, aggression and violence. The legal basis for this is comprised by article 4, 2nd clause of the 1998 Working Conditions Act (*Arbowet 1998*) on the basis of which the employer is obliged, within general labour conditions policy, to pursue a policy geared at protecting employees against sexual intimidation and against aggression and violence and the ban on intimidation included in the new supplements on the basis of the European equal treatment directives and amendments to national equal opportunities legislation (see also chapter 1).

Government sector

The Ministry of the Interior and Kingdom Relations will present a bill to amend the civil servants' act (*Ambtenarenwet*) to the Lower House at the end of 2003, beginning of 2004. This bill will include the obligation that the competent authority of a government body should draft a code governing behavioural integrity.

The Ministry of the Interior and Kingdom Relations is also drafting a model code of integrity for the government sector. One of the norms for integrity in this model code is the criterion of 'treating each other and others with respect'. In correlation with this, attention is also given to preventing and combating racial discrimination. The integrity code will refer in full to the model

government code of conduct against racial discrimination, adopted by the Council of Ministers in July 2001. The model integrity code is expected to serve as a model for the codes of conduct of lower governments bodies. Once this model code has been established, the goal is to gain attention for it in a 'start' conference to be held in the course of 2004. For the current government codes this means assessing which aspects of these codes need to be adjusted.

Ministry of Defence

Within the personnel policy of the Ministry of Defence, the anti-racism and anti-discrimination policy is already part of an active policy against all forms of undesirable conduct. Defence makes great demands of the integrity of its personnel and with this is even more vigilant in combating undesirable conduct. Complaints committees and networks of confidential counsellors create a safety net to counter this. Because of this the Ministry will place even more emphasis on the unacceptability of undesirable conduct in its training programmes and train managers to take action against it. The effects of this active approach are reported on yearly. In the spring of 2004, moreover, the results of the second survey into undesirable conduct will be published, as a follow-up to the zero measurement at the end of 2001.

5. **INFRASTRUCTURE**

5.1 **General starting points**

In the Netherlands, a large number of national, regional and local (private) organisations and bodies are actively registering, monitoring, combating, preventing discrimination and intolerance, and raising awareness of them. Besides specific anti-racism organisations (like the LBR), there are organisations taking active steps, including tackling racism, such as the anti-discrimination bureaus, the reporting centres, the Anne Frank Foundation, E-Quality and so on.

In the sphere of compliance with rules and regulations and the social but also institutional awareness-raising process around discrimination, specific bodies are also active. The National Expertise Centre against Discrimination of the Public Prosecutions Department (LECD) and the National Police Bureau for Discrimination Cases (LBD) are examples of such specialised organisations. Naturally, the majority of anti-discrimination organisations also contribute to structuring the awareness-raising process. In addition, there are various organisations and bodies that keep the government up-dated with shadow reports on the progress reports on the government's anti-discrimination policy (among others the Dutch Section of the International Commission of Jurists - in Dutch, *Nederlands Juristen Comité voor de Mensenrechten*).

Despite the good infrastructure of anti-discrimination organisations in the Netherlands at national level, the multiplicity of organisations runs the risk of fragmentation into sub-interests, complex coordination and double work. Because of this, especially in the social and legal infrastructure, it is important to arrive at more uniformity, cooperation, simplification, efficiency and quality improvement. These seem to lie in an integral approach to discrimination where not the various types of distinction serve as the starting point (nationality, gender, age, sexual orientation, handicap, ethnic origin etc), but the prohibition of discrimination in its entirety, article 1 of the Dutch constitution. This means that the policy is not purely directed at specific target groups but at situation-oriented policy to promote diversity and equal treatment and to combat discrimination. The same applies to anti-discrimination legislation. This is often fragmented across various focal areas and could also be integrated. The pledged integration of the Dutch Equal Treatment Act on the basis of handicap (WGBH/CZ) and the legislative proposal for equal treatment on the basis of age in the labour market (WGBL) in the Dutch general Equal Treatment Act will also be an important first step in this direction. The government has a hand in

steering this integration process but lower government bodies (municipalities, provinces) and related government bodies like the police and Public Prosecutions Department) should work to promote integration at their level.

This integration does not necessarily affect specific policy in the various sub-areas of discrimination. The numerous anti-discrimination organisations continue to be responsible for the ultimate collaboration, policy implementation and initiatives taken, and also for communication with organisations and citizens in their sub-area. There is an important role here for the NPRD (the national platform for consultation and collaboration against racism and discrimination).

5.2 Streamlining grounds for anti-discrimination

The national government will work as sparring partner and consultation partner to realise intense cooperation between the various non-government organisations. The spearhead for the Ministry of Justice here is a merger between the LBR and the LVADB's. The further professionalisation of the anti-discrimination bureaus will be influenced by this.

The Minister for Immigration and Integration has also allocated a once-only subsidy for 2004 to heighten the collaboration between the LBR, the lesbian and homosexual emancipation policy expertise centre (*Kenniscentrum Lesbisch- en Homo-emancipatiebeleid*, KLH) and the age and society expertise centre (*Expertisecentrum Leeftijd en Maatschappij*, LBL) and the expertise centre for gender and ethnicity (E-Quality) .

Efforts are also being made to continue and/or expand the 'recently launched coordination consultation' between the LVADB's , the LBR, the LECD and the LBD. The LBD of the police is charged with promoting compliance with the Discrimination Order (*Aanwijzing Discriminatie*) issued by the board of procurators general by the police. The LBD supports the police forces in researching and resolving current bottlenecks in implementing anti-discrimination policy. The role of the regional tri-partite authority (mayor, chief public prosecutor and commissioner of police) is of crucial importance in tackling discrimination and is indicated as such in the Discrimination Order. In this consultation, the policy and priorities of the Public Prosecutions Department, the police and government, are coordinated.

The starting point for cooperation is that specific specialisms remain intact and that activities are coordinated wherever possible (such as publicity campaigns and the like).

To improve tackling discrimination on the internet, the government is making efforts to realise better coordination of the activities of the MDI (Dutch Complaints Bureau for Discrimination on the Internet), the LECD and the LBD. The LBD is the help desk for the 25 police forces that will each appoint a separate officer as the point of contact for discrimination cases.

The government itself will endeavour to realise cooperations and exchange information on anti-discrimination.

5.3 Streamlining complaints registration and policy monitoring

Uniform registration of complaints of discrimination and racism by both government bodies (Public Prosecutions Department, Police) and private organisations (such as anti-discrimination bureaus, and the MDI) and the Equal Treatment Commission is essential. This prevents under-registration and improves the comparability of data and the development of appropriate policy. To realise this improvement, collaboration between organisations is also essential. With the introduction of an incentive scheme to promote the professionalisation of anti-discrimination bureaus (*stimuleringsregeling professionalisering anti-discriminatiebureaus*), a move has already been made to improve both 'monitoring and registering complaints' and to improve collaboration. This scheme will finish at the end of 2004 and the municipalities and provinces involved in the incentive scheme will need to continue their efforts in this direction. In 2004, the Ministry of Justice will consult the involved parties to consolidate efforts to achieve uniformity in registering complaints of discrimination.

In collaboration with the LBR and the Anne Frank Foundation (*Anne Frank Stichting*) the Ministry of Justice is developing a new Racism Monitor which will become available in 2005. The Monitor will include data on attitude-forming that can be used in public awareness-raising campaigns on racism and discrimination. The Monitor will also be used to collect data for national and international reports.

To gain insight into the scale of offences under ordinary law of a discriminatory nature, a registration pilot project commenced on 1 June 2003 at the Amsterdam District Court. To this

end, an events code (13 DI) has been developed in the Public Prosecutions Department registration system, Compas. Once this events code has been evaluated, it will be decided whether, and how, it can be introduced at national level. The pilot ends at the start of 2004. The national introduction of the programme is planned for 2005.

At all events, the Ministry of Justice will subsidise the MDI and the LBR. The MDI is responsible for raising awareness of discrimination on the internet, and for tackling it.

6. SUMMARY OF ACTION POINTS

Living environment

Promoting a joint approach to create a safe and pleasant living environment.

- In collaboration with, among others, the LVADB's and the LBR, the Ministry of Justice promotes the exchange of successful initiatives aimed at tackling racism and discrimination
- National NPRD campaign geared to promoting social debate and dialogue: sub-activities:
 - NPRD sees to it that local Platforms are set up in four major cities
 - NPRD has a booklet developed, with practical tips on tackling discrimination in the community
 - Study days on tackling discrimination in the neighbourhood
- Through administrative consultations with municipalities and provinces, the Minister for Immigration and Integration indicates that for local integration to succeed, their policy must pay attention to tackling discrimination, including racism
- The RADAR projects in Rotterdam on nightclub door policies and night life ("Panel deurbeleid" and "Clubfacts") should result in this initiative being picked up by other cities.

Awareness-raising

Eliminating prejudices and racist or discriminatory statements

- National NPRD campaign geared to promoting social debate and dialogue: sub-activities (see living environment).
- The KPC Group supports schools wanting to implement projects on active citizenship.
- This school year, citizenship internship pilot projects will be implemented at ten secondary schools.
- The Kennisnet schools will offer a website for values and norms as a platform for the exchange of good practical examples.
- More attention for values, norms, political science and history in integration programmes.
- The Minister for Immigration and Integration will further structure the concept of shared citizenship through public debates, among other things, in collaboration with

various organisations including FORUM. In administrative consultations with municipalities and provinces, the Minister for Immigration and Integration will speak about the role model function of officials with regard to respectful treatment.

- The Ministry of Education, Culture and Science subsidises the NINSEE.
- The education inspectorate will give extra attention to anti-Semitism in its inspections.
- The LECD is developing a handbook for members of the Public Prosecutions Department on expediency in criminal cases.
- The awareness-raising campaign “*Discriminatie? Bel gelijk!*” (which roughly translates as ‘Discrimination? Phone us now!’). A working alliance of various ministries, the LVADB’s and the Dutch Equal Treatment Commission .

Equal treatment in the labour market

Promoting equal treatment of ethnic minorities in the labour market

- The Ministry of Social Affairs and Employment is exploring scope for improved ways of securing the equal treatment of ethnic minorities in the procedures concerning using and taking psychological tests.
- The Ministry of Social Affairs and Employment is exploring its external working conditions policy (arbo policy) for opportunities of encouraging parties to take appropriate action to provide more effective working conditions services to employees of non-Dutch heritage. This also involves equal opportunities issues. A proposal for an approach will be published in the course of 2004.
- Follow-up expert meeting on undesirable forms of conduct in November 2003, the results of which will be included in the working conditions policy geared to target groups.
- At the end of 2003, beginning of 2004, a bill will be offered to the Lower House to amend the civil servants’ act (*Ambtenarenwet*), which will compel the competent authority of a government body to draft a code of conduct on integrity.
- The Ministry of the Interior and Kingdom Relations will realise an integrity code of conduct for the government. This model code will integrally include the model code of conduct against racial discrimination for the government sector (*Model Gedragcode Rijksoverheid tegen Rassendiscriminatie*).
- In 2004, the Ministry of the Interior and Kingdom Relations will organise a start conference to implement the model code of integrity.

- In its training courses, the Ministry of Defence emphasises the unacceptable nature of undesirable conduct and trains managers to take action against it.
- In the annual reports of the Ministry of Defence, the effects of this active approach will be reported.

Infrastructure

Streamlining the infrastructure / anti-discrimination grounds

- The Ministry of Justice works to realise a merger/intensive collaboration between the LBR and the LVADB.
- The Ministry of Justice strives to continue and/or expand the 'recently launched coordination consultation' between the LVADBs, the LBR, the LECD and the LBD.
- The government is working to realise better cooperation and improved alignment of the activities of the MDI, the LECD and the LBD.

Streamlining the registration of complaints and policy monitoring

- Municipalities and provinces pursue the trajectory launched by the government aimed at promoting the professionalisation of the anti-discrimination bureaus.
- Working with the organisations involved (the Public Prosecutions Department, the LECD, the LBD, the anti discrimination bureaus, etc), the Ministry of Justice strives to realise more uniform registration of anti-discrimination complaints.
- In collaboration with the LBR and the Anne Frank Foundation the Ministry of Justice is developing a new Racism Monitor.
- Research is being conducted to see whether, how and when the events code (13 DI) can be introduced in Compas (the Public Prosecutions Department registration system) at national level.
- The Ministry of Justice is subsidising the LBR and the MDI.

ANNEX II

National Action Plan on Racism - final report

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1. Introduction

The National Action Plan on Racism (NAP) originated in the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR), held in Durban in 2001. The participating countries, including the Netherlands, undertook to draw up a national action plan combating these forms of discrimination. Following extensive consultation with stakeholders, the National Action Plan on Racism (NAP) was presented in December 2003 (House of Representatives 29 200 VI, no. 62). In June 2005 parliament received a progress report on the period 2003-2005 (House of Representatives 29 800 VI, no. 154). The NAP spanned the terms of office of the Balkenende II and III governments (2003-2006). This report constitutes the conclusion of the NAP.

At the request of Parliament, a result-based format was adopted. All the measures and actions set out in the NAP have now been implemented, replaced or embedded in standard policy. Some of the NAP action points were dealt with in the first progress report. In this report the results of measures and actions relating to the remaining action points are described, thus rounding off the Plan.

This final report first summarises all the measures taken in recent years, grouped by theme – living environment, raising awareness, equal treatment in the labour market and infrastructure. It then goes on to examine developments relevant to antidiscrimination policy, which share common ground with the NAP but do not actually fall under any of the action points. Finally, the report summarises the most recent developments in antidiscrimination legislation.

Under the previous government, national coordination of the NAP was the responsibility of the Minister for Immigration and Integration. As the member of the current government responsible for coordinating efforts to combat racism, the Minister for Housing, Communities and Integration had this report drawn up.

The action points for the NAP have been completed, but fighting racism remains a priority. The current government believes that the right to equal treatment is one of the basic pillars of social relations between individuals, and between individuals and government. Protecting individuals against discrimination is vital if democracy, the rule of law, social cohesion and social relations are to be maintained. The government has therefore identified fighting discrimination as a priority

for its current term of office. In the second half of 2008 an action plan will be presented to Parliament, outlining the measures the government will take to combat racism. The plan will outline how the minister responsible will shape anti-racism policy, together with the Minister of Justice, the Minister of the Interior and Kingdom Relations, the Minister of Education, Culture and Science, the Minister of Social Affairs and Employment and the Minister of Health, Welfare and Sport. The plan will also look at combating racism at local level.

2. Action points

2.1 Living environment

Encouraging a common approach to create a safe, pleasant living environment

It needs to be clear to everyone living in the Netherlands that racial discrimination and similar forms of intolerance in the 'public sphere' are not acceptable. Everyone has the right to a secure environment in which to live, grow up and enjoy free time. If integration is to be achieved at local level, municipalities and provinces need make fighting discrimination a policy priority. A number of anti-racism measures have already been taken, providing a great deal of information and many positive examples. The need to tackle discrimination at local level and to improve the community environment is reflected in the current government's priorities.

What action has been taken?

- In September 2006, in response to a Social Development Council report, the minister then responsible for integration set up an incentive scheme to encourage contact at local level between ethnic Dutch people and ethnic minorities. The scheme aims to encourage these groups to get to know each other, achieving lasting, rather than incidental, contact. From 2006 to 2008 an annual grant budget of €3.6 is available for local projects designed to stimulate sustainable contacts.²
- The '& Campaign' was a public information media campaign portraying positive interaction between ethnic Dutch and ethnic minorities, with the message that interaction brings added value. The objective was to achieve more mutual knowledge and respect between different cultures and ethnicities in the Netherlands. Highlighting positive examples of intercultural interaction generates mutual understanding and respect, which can reduce discrimination.

² Qualifying criteria, examples of projects and other information on the scheme can be found at www.ruimtevoorcontact.nl.

The campaign website gives a number of examples of how to combat discrimination and racism, which was an important element of the campaign.

- In 2004 the National Antiracism and Antidiscrimination Platform published a book of practical tips on how to fight 'discrimination in your community'. The Platform also organised workshops in four cities/regions (Dordrecht, Friesland, Eindhoven and Rotterdam). These workshops gave rise to a number of local initiatives and follow-up meetings.
- The Rotterdam Door Policy Panel, which is working to reduce door policy discrimination in the nightlife industry, has now been running for five years. Partners in the project include Rotterdam municipal council, the Rotterdam-Rijnmond regional police, the Royal Dutch Catering Association, Rotterdam Youth Council and Rotterdam Antidiscrimination Council (RADAR). The project is now running in a number of towns, including Dordrecht, Breda, Eindhoven, Almere, Amsterdam and Utrecht, while others, including The Hague and Arnhem, are working on similar projects. RADAR regularly holds information sessions on the project for towns that are interested in adopting it. RADAR has also made a number of international presentations.
- The Rotterdam-Rijnmond regional police have adopted the Door Policy Panel project, with the intention of extending it to other municipalities in the Rotterdam area known for their nightlife industry, such as Schiedam, Vlaardingen and Capelle aan den IJssel.
- RADAR's 'Clubfacts' project, which also addresses door policy discrimination, has been given fresh impetus thanks to funding from the Minister for Housing, Communities and Integration. As part of the project RADAR is working with the Rotterdam Youth Council to help reach the target group.
- A number of civil society organisations working to combat racism and discrimination³ list good practices on their websites. These are a source of advice and information for other organisations wishing to set up similar initiatives.

2.2 Raising awareness

Tackling prejudice and racist and discriminatory behaviour

It is vital for people from all parts of society to be aware that discrimination is unacceptable and to recognise their own prejudices and discriminatory behaviour. That is the only way to overcome discriminatory conduct and related forms of intolerance. Propagating our norms and values and learning from history (persecution of the Jews, slavery) are both a vital part of this.

³ Examples include www.kiem.nl; www.art1.nl; www.discriminatie.nl; www.forum.nl; www.annefrank.org; www.tijm.nl; www.div-management.nl; www.radar.nl

What action has been taken?

- On 1 January 2007 the Civic Integration Act came into force. Under the Act, certain groups of newcomers and established migrants are required to sit and pass the Civic Integration Examination. The exam tests knowledge of both the Dutch language and Dutch society. A survey was carried out to find out what people living in the Netherlands think about knowledge of Dutch society, so as to determine what people required to take the examination should be expected to know. The survey's broad-based approach resulted in a clear picture of what ethnic Dutch people and members of ethnic minorities alike think are the most important aspects of society. This allowed attainment targets to be formulated, i.e. what a candidate for civic integration should be expected to know, be familiar with and be able to do. The attainment targets were then worked out in more detail and discussed with a broad-based focus group before being finalised by the minister responsible for integration. They are divided into themes such as Conventions, norms and values, History and geography and The structure of government and the rule of law.
- It is a legal requirement that citizenship and social integration be covered in primary and secondary education, where they form part of the knowledge pupils are expected to attain.
- A wide range of support is available for schools on teaching citizenship.
- The monitoring remit of the Education Inspectorate now includes citizenship and social integration.
- As part of the 'safety at school' framework the Inspectorate has intensified its inspections of school safety, including racism and anti-Semitism.
- 481 secondary schools now offer civil society placements. The coalition agreement specifies that all young people need to undertake a placement in a non-profit or voluntary organisation as part of their education. The Ministry of Education, Culture and Science is currently working on a civil society placement action plan, which will crystallise the implementation of this point of the coalition agreement.
- The 'Global school' and 'Racism-free school' projects (for primary and secondary schools respectively) are run by Art. 1. The projects are designed to enable schools to send out a clear message that they are striving to be places in which everyone is welcome and can feel safe, regardless of differences in appearance, country of origin or culture.⁴ They can do this by signing a declaration and organising annual awareness-raising activities encouraging

⁴ Art. 1 resulted from a merger between the National Bureau against Racial Discrimination (LBR) and the National Federation of Antidiscrimination Bureaus and Hotlines.

acceptance of diversity. Schools that meet the requirements will be designated a 'Global school' or 'Racism-free school' and receive a plaque.

- In September 2005 the Centre for Information and Documentation on Israel (CIDI) established the Intercultural Alliance.⁵ The Alliance is run by the COC (association that campaigns for the rights of homosexuals), the Muslim School and School Board Association (ISBO), the Rijnmond Muslim Platform and RADAR. The Alliance offers schools and other bodies the diversity programme 'A World of Difference', developed together with the US Anti-Defamation League. At the time of writing projects are running in a number of primary schools, secondary schools and neighbourhoods. The Anne Frank Foundation and the National Antiracism and Antidiscrimination Platform (NPRD) have developed and implemented a successful pilot project at a regional training centre (ROC) in the Bijlmermeer area of Amsterdam. The pilot encourages schools to openly discuss the issue of prejudice and racism, using the '*grensgevallen*' ('borderline') programme. The Anne Frank Foundation has now developed a second-generation programme, 'free2choose'. The idea is to look at how fundamental rights and freedoms clash with the democratic society in which we live. Free2choose is available for interactive use at the Anne Frank House in Amsterdam, and is being developed for educational use.
- The Ministry of Education, Culture and Science is providing the Dutch national centre of expertise on the Netherlands and slavery with a grant from 2005 to 2008. The grant will make it possible for information on the Netherlands' role in slavery to be collected, documented and made accessible to the public, and will fund adult education and research.
- The Institute for Multicultural Development FORUM organised a number of dialogues between key figures from three target groups. These groups are: ethnic Dutch and ethnic minority civil society organisations; policy thinkers and social scientists; and politicians and policymakers. In 2005 the results of these dialogues were incorporated in a working document on shared citizenship. The document looks at the various meanings of the term, examining the conditions for and obstacles to the realisation of shared citizenship.

2.3 Equal treatment in the labour market

Encouraging equal treatment of ethnic minorities in the workplace

Long-term participation in the labour market is one of the most important ways of fostering the integration of ethnic minorities. As well as ensuring that jobseekers and employees can register a complaint as soon as they encounter discrimination, it is equally important that employers are

⁵ <http://www.interculturele-alliantie.nl>

encouraged to pursue a diversity policy and cross-cultural management. National government is intending to monitor the effects of the measures taken by employers' and employees' organisations by monitoring developments and listening to feedback.

What action has been taken?

- In recent years efforts to make safety, health and welfare ('SHW') services more effective for ethnic minority employees have concentrated largely on research, education, training and developing service professionals' knowledge. A letter was sent to the House of Representatives on 30 March 2006 (Parliamentary Papers, House of Representatives, 2005/06, 28333, no. 77) accompanying the study on 'The reintegration of ethnic minority employees in the first year of sick leave', specifying measures taken by the Ministry of Social Affairs and Employment to improve reintegration.
- In the area of external SHW policy, the government is funding a project in 2006-2008 on the implementation of ethnic diversity in SHW services. The project is helping the Dutch Occupational Health Association to develop a methodology for incorporating our knowledge of ethnicity, health care and work into the guidelines for the profession. The objective is for professional groups to automatically consider the ethnicity factor when developing guidelines.
- The Ministry of Defence has introduced a number of changes to the way it operates, in line with recommendations made by the Staal Committee.⁶ One of the recommendations concerns management responsibility for ensuring integrity at all levels; the most important objective is to develop the leadership style at the ministry so that it places more emphasis on social issues. The emphasis will be on providing and adapting training and implementing a supervisory structure. An action plan has been drawn up, specifying the measures to be taken and a time schedule. Six-monthly investigations into inappropriate behaviour will be conducted. Racism is one of the issues addressed by the chief confidential advisors' annual reports. The number of incidents, and the manner in which they are dealt with, will be registered.
- On 3 April 2006 a conference on the government's model code of conduct was held in The Hague. Around 80 to 100 civil servants (personnel officers and representatives of employee participation bodies) from across the country took part. The primary objective of the conference was to unveil the new model code of conduct. A seminar looked at how the

⁶ In 2006 the Staal Committee examined inappropriate behaviour within the armed forces. The Committee also looked at how procedures work and how management functions, and the system for monitoring integrity.

model code of conduct developed and how it relates to codes of conduct already in place at individual ministries. One important point of discussion was that the code in itself is not enough. It is also important that organisations create an open culture in which people are not afraid to confront each other. On 16 November 2006 the ministries' integrity coordinators organised the 'New approach to integrity' workshop, on a culture-sensitive approach to integrity. The network will be expanding on this theme in 2007.

- The Ministry of Social Affairs and Employment gave the then National Bureau Against Racial Discrimination a grant to develop a procedure for psychological testing of members of ethnic minorities, together with the Dutch Institute of Psychologists. The procedure is intended to encourage the equal treatment of ethnic minorities, so that they have equal opportunities when applying for jobs in and working for organisations when psychological tests and/or structured questionnaires are used. The aim was also to compile a summary of usable psychological tests for ethnic minorities, with recommendations for continued improvements. Two publications have been produced, one containing guidelines on the use of psychological tests for ethnic minorities, the other a summary of usable psychological tests for ethnic minorities with recommendations. On 23 August 2005 guidelines on the use of psychological tests for ethnic minorities were presented to the House of Representatives.

2.4 Infrastructure

In the Netherlands a large number of national, regional and local public and private organisations work to register, monitor, combat, prevent and raise awareness of racism and related forms of intolerance. These organisations, including Art. 1, the Public Prosecution Service's National Discrimination Expertise Centre and the Diversity and Police Expertise Centre, play a vital role in the national infrastructure. National government wants to see increased streamlining of national discrimination policy.

What action has been taken?

- In 2005 the steering group headed by former minister Els Borst published an advisory report on equal treatment. The government's response to the report was incorporated in the Action Plan on Discrimination, presented to the House of Representatives on 30 November 2006 by the former Minister for Immigration and Integration. A statutory regulation on improving existing antidiscrimination services (ADVs) and developing a national network of new, accessible, professional ADVs is now being drawn up. It defines the respective responsibilities of central government and municipal authorities. Six million euros will be

available annually for this purpose. Transitional measures will be in place until the legislation is introduced, to maintain and expand on existing ADVs. In 2006 and 2007 this process is being encouraged by voluntary agreements drawn up between municipalities and provinces, specifying by how much total coverage will be increased and how this will be funded. As of mid-2007 all recipient municipalities and provinces will be expected to actively involve municipalities who have not operated an anti-discrimination policy to date in the development of a regional ADVs.

- Legislation is being developed requiring every municipality to offer individuals access to ADVs in the long term. The core tasks of the ADVs will be to allow people to register complaints, ensure that they are processed and offer the complainant support. Conditions for professionalism and uniform registration will be drawn up with Art. 1. The existing antidiscrimination hotline *Discriminatie? BelGelijk* and the accompanying internet site www.BelGelijk.nl will be expanded and professionalised, to offer municipalities extra support. It is hoped that a bill will be submitted to the House of Representatives in autumn 2007, establishing the division of tasks between central government and the municipalities. In 2008, once the national network is complete, a national information campaign will be launched to inform people that they can report discrimination at local and regional complaints offices.
- The first Racial Discrimination Monitor, which covered 14 different themes, was published in 2006. Four partners are responsible for the Monitor: the Anne Frank Foundation, the National Bureau against Racial Discrimination (LBR), the National Federation of Antidiscrimination Bureaus and Hotlines (LVADB) and Leiden University. The second Racial Discrimination Monitor is to be compiled by Art. 1 and the Anne Frank Foundation and will be published in 2009.
- The LBR and the LVADB were merged on 1 January 2007, resulting in the new Art. 1, to which the ADVs belong. The former LBR constitutes the national support unit. Art. 1 works to prevent and combat discrimination, on all grounds, and has received funding for set-up costs.
- In 2006 and 2007 the Ministry of Justice awarded the LBR and Art. 1 a grant for a number of projects and activities. In 2006 and 2007 the Internet Discrimination Hotline (MDI) was also awarded a grant, by the Minister of Justice and the Minister for Housing, Communities and Integration respectively.
- Art. 1 was awarded a grant for three consecutive years from 2005 by the Ministry of Education, Culture and Science for educational activities.

- Consultations between the Public Prosecution Service's National Discrimination Expertise Centre (OM-LECD), the Diversity and Police Expertise Centre and Art.1, which is also responsible for the secretariat, take place at least twice a year. The Ministry of Justice and the Ministry of the Interior and Kingdom Relations also attend periodically. National partners use the consultations to share information on policy, current events, activities, local problems and good practices so as to develop and define joint strategies. The objective is to be able to act more efficiently against discrimination, in terms of both prevention and investigation, and to be able to provide local/regional authorities with the tools to do so.
- Periodic discussions held by the MDI, OM-LECD and Amsterdam -Amstelland regional police have been successful. In 2006 the Amsterdam police participated in discussions in place of the National Bureau for Discrimination Cases (LBD) (now the Diversity and Police Expertise Centre). As of 2007 the latter has been a discussion partner in its own right.
- In 2006 Art.1 began renewing the registration system used by ADVs to register complaints about discrimination. It is important that the nature and circumstances of complaints are registered in detail, partly so that they can be used for purposes of monitoring and policy advice. Renewal is taking place in close cooperation with different user groups.
- In the National Framework for the Dutch Police 2007 it has been agreed that the police will make a crime pattern analysis for discrimination (CPD), which will regularly be shared with the Public Prosecution Service, municipalities and other relevant partners.
- It may also be possible for the Public Prosecution Service to register crimes of a discriminatory nature using the new GPS system. Agreements referred to in the National Framework for the Dutch Police will also be part of the revised discrimination instructions issued by the Board of Procurators General.

3. Related developments

European Year of Equal Opportunities for All (2007)

The European Commission has designated 2007 as the European Year of Equal Opportunities for All. The Netherlands will be organising a number of workshops and debates on this theme, with a temporary grant scheme funding equal opportunities and diversity projects. The objective of the European Year is to make people aware of their right to equal treatment and freedom from discrimination and, moreover, increase awareness of and make more information available on the available infrastructure. Activities organised in the Netherlands have been summarised in a National Action Plan, drawn up with the help of expertise centres, NGOs and other bodies

working to achieve equal opportunities and combat discrimination. The Dutch opening conference for the European Year took place on 7 March 2007.

Awareness-raising campaign *Discriminatie? Niet met mij!*

The 'Discriminatie? Niet met mij!' campaign

The '*Discriminatie? Niet met mij!*' campaign' was launched on 1 December 2004. It follows on from the '*Discriminatie? Bel Gelijk!*' campaign. Eighty per cent of the costs of the new campaign are covered by the European action programme to combat discrimination (article 13 of the EC Treaty), the remaining 20% is funded jointly by the Ministry of the Interior and Kingdom Relations, the Ministry of Health, Welfare and Sport, the Ministry of Justice (Immigration and Integration) and the Ministry of Social Affairs and Employment. The campaign, run by the National Bureau against Racial Discrimination, targets those who may be vulnerable to discrimination and unequal treatment. Those who may be at risk are informed how they can handle discrimination in such a way that it has minimal impact on their daily life and how they can confront persons acting in a discriminatory manner, whether consciously or unconsciously. It also targets environments in which discriminatory behaviour can take place. The '*Discrimination? Niet met mij!*' booklet, intended for the general public, contains practical tips on combating discrimination. The first copy of the booklet was presented to the State Secretary for Social Affairs and Employment on 31 January 2006. A reader, containing more specific information, has been produced for organisations. The national '*Discriminatie? BelGelijk*' hotline and accompanying internet site www.BelGelijk.nl are being expanded and professionalised in order to help support municipalities in achieving a national network of ADVs.

Activities aimed at social partners

As part of the Social Cohesion Initiative the Ministry of Social Affairs and Employment has organised a number of activities with social partners, and civil society and minority organisations. These activities are now all up and running and will be periodically monitored. Should the methodology prove to be effective it may eventually be incorporated into long-term policy.

At their meeting on 1 December 2005, the government and social partners made commitments on ethnic minorities' participation in the labour market. One of the agreements was that the Labour Foundation would draw up recommendations for parties to collective labour agreements and businesses regarding company policy on minorities and ways of combating discrimination (including recruitment and selection, unequal treatment, diversity policy, and the role of

employee participation bodies). The Labour Foundation has also updated its declaration on equal treatment in the labour market. The recommendations and update were published on 20 January 2006 in a policy document (*Samen werken op de vloer*) on working together in an employment setting, publication number 2/06. Agreements were also reached with social partners at the participation summit of 27 June 2007 on ethnic minorities' employment participation and on combating discrimination and exclusion in the labour market.

National labour market discrimination survey

The government has set up a national labour market discrimination survey. The objective of the survey, which is to be conducted every two years, is to map the nature and scope of discrimination on the grounds of race, religion and nationality, and identify long-term trends.

The first national labour market discrimination survey was started on 15 December 2006, and the results will be presented in november 2007. In 2008 an additional survey will take place. The second survey will commence at the end of 2008, with results expected in October 2009.

4. Legislation

As the National Antiracism and Antidiscrimination Platform (NPRD) correctly observed in an advisory report on the National Action Plan on Racism (NAP), the legislative framework for tackling discrimination largely satisfies the criteria agreed at the UN World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance (WCAR).

Since the NAP was presented in December 2003, a few amendments have been made to the relevant legislation, as a result of European directives. The Council Directive on equal treatment between persons irrespective of racial or ethnic origin (Directive 2000/43/EC), and the Council Directive on a general framework for equal treatment in employment and occupation (Directive 2000/78/EC) were implemented by the Equal Treatment (Implementation of EC Directives) Act of 21 February 2004. The amendments came into force on 1 April 2004. In 2005/2006 the Equal Treatment Act was evaluated for a second time. The Equal Treatment Commission drew up a report of findings on how the legislation works in practice. The then government also commissioned Tilburg University and the University of Groningen to jointly evaluate how the Act is working. Their report was published at the end of 2006. A government position in response to

the conclusions is currently being prepared. The results of the evaluation will be incorporated into the bill to integrate the Equal Treatment of Disabled and Chronically Ill People Act, the Equal Treatment in Employment (Age Discrimination) Act and the Equal Treatment (Men and Women) Act into the Equal Treatment Act.

Moreover, the Act to increase sentencing in the case of persistent forms of discrimination came into force on 1 February 2004 (House of Representatives 27 792). The maximum penalty for persistent, intentional insults on account of a person's race, religion, belief or sexual orientation, and for persistent incitement to discrimination, has been doubled to two years. Persistent distribution of discriminatory material and persistent discrimination against others in the exercise of an office, profession or business now carries a maximum penalty of twelve months.

ANNEX III

Conference on joint approach to discrimination

Tackling discrimination is a priority for the present government. Stakeholders exchanged ideas on how best to combat discrimination at a conference on 7 June 2007.

The conference on a joint approach to discrimination was organised by the Ministry of the Interior and Kingdom Relations, the Ministry of Justice, the Public Prosecution Service and the police. Also present were representatives of a number of municipalities, the Association of Netherlands Municipalities (VNG), antidiscrimination services (ADVs) and other civil society organisations working to promote equal treatment and to combat discrimination.

The results of the conference were as follows:

Objective

- As of 2008, municipalities, the Public Prosecution Service, the police, the Equal Treatment Commission and ADVs will work together on an active approach to tackling discrimination at the local level.
- A joint 'sense of urgency' underlies the tackling of discrimination.

Organisation

- In each locality, municipalities, together with the Public Prosecution Service, the police and the ADVs, will devise a local antidiscrimination policy.
- The municipalities will be in charge of implementing this policy.

Elements of the policy

- The stakeholders will introduce a uniform method of registering incidents of discrimination.
- Each regional police force will compile statistics on offences with a discriminatory element, incorporating figures supplied by ADVs, the Equal Treatment Commission, the Public Prosecution Service, the police and the local authorities. The National Police Services Agency (KLPD) will combine these statistics into a national analysis.
- Each citizen must know where he or she can report an incident involving discrimination.

Embedding

- In each locality, the mayor, the chief public prosecutor and the police chief will adopt and evaluate local antidiscrimination policy.
- The local authorities, the Public Prosecution Service, the police and the ADV will set up a local coalition platform.
- The VNG will set up a network of members of municipal executives with responsibility for combating discrimination. The central Government will act as a stimulator in this.
- The VNG will put the campaign against discrimination high on its agenda.

Investigation and prosecution

- All public prosecutor's offices and regional police forces will apply the Discrimination Instructions issued by the Board of Procurators General.
- The Public Prosecution Service and the police, with the assistance of the Internet Discrimination Hotline, will improve their knowledge on how to combat discrimination on the internet and increase their capacity for tackling it.
- The Equal Treatment Commission will more frequently use its investigative powers where recorded discriminatory incidents point to the existence of systematic discrimination (e.g. in employment, housing, care).

Coordination at national level

The government will deliberate on ways of coordinating central government policy.

ANNEX IV

Study on equal treatment at work

Summary

Study questions

The aim of this study was to collect information from companies and organisations in the Netherlands on the application of legislation and regulations in six areas of equal treatment at work. The subjects of the study are listed below:

1. Recommendations and guidelines with regard to recruitment and selection
2. Medical Examinations Act
3. Affirmative action policy with regard to women, ethnic groups and disabled or chronically ill persons
4. Equal Treatment in Employment (Age Discrimination) Act
5. Equal Treatment in Employment (Disabled and Chronically Ill People) Act
6. Equal Treatment in Employment (Sexual Orientation) Act

Although the scope and target group of the areas differ, there is also a clear connection. Each must make its own contribution to the reduction of inequality at the workplace. The assumption is that the more organisations take account of regulations on equal treatment in their recruitment and selection behaviour, the more accessible they will be for groups in a weaker position on the job market. It is in this light that the following central issue was formulated for the study:

What is the current position with regard to the application of legislation and regulations in six areas of equal treatment in Dutch companies and organisations?

This question can be divided into three questions:

- a. How familiar are companies and organisations with the legislation and regulations in the individual areas?*
- b. What is the current position with regard to implementation and what problems do organisations experience here?*
- c. What is the attitude of companies and organisations with regard to legislation and regulations in the areas stated?*

Data collection in three steps

The study was carried out in three steps. Firstly, data was collected by means of a telephone survey for each of the six areas among a representative section of companies and organisations in the Netherlands. In total 270 organisations were approached for the various areas, divided into three sectors (market, semigovernment and government) and into three size classes (20-99, 100-299 and more than 300 employees). Only for the area Medical Examinations Act data was collected from 540 companies and organisations.

Secondly, to supplement the data from the telephone survey, in-depth interviews were held per area, while finally, in the third place, the picture obtained at microlevel was compared with experiences and findings of parties at macro-level, including employer and employee organisations and relevant interest/expert organisations.

Results

a. Familiarity with legislation and regulations

Familiarity with the existence and contents of equal treatment legislation and regulations is an important condition for their application in companies and organisations. The study shows that the familiarity with equal treatment legislation and regulations in Dutch companies and organisations depends to a large extent on the specific area to which the legislation or regulations apply. These differences in familiarity are influenced by various factors.

It takes time to distribute information on new developments on a large scale. This is also the case with legislation. Legislation that has only been in force for a relatively short time is in general less well known than legislation that has been in existence for a longer period. The Medical Examinations Act, which has been in force since 1 January 1998, is better known within companies and organisations than legislation that has only come into force recently, such as the Equal Treatment in Employment (Disabled or Chronically Ill People) Act. This applies both to the knowledge that the legislation exists and to the knowledge of its contents.

The differences between companies and organisations are also relevant for familiarity

with legislation and regulations. In general, the smaller companies in the study (up to 100 employees) and the companies in the market sector are the least well-informed. They are less well-informed about the existence of the regulations and if they do know about them, they are less familiar with their contents. The differences in knowledge between small and large organisations are probably related to the presence of a more professional personnel department in large companies and organisations. This gives large organisations a better opportunity to actively follow new developments in the personnel area. The difference between the market sector on the one hand and the government and non-profit sector on the other hand may also be related to differences in organisational culture. Government organisations 'by nature' attach more importance to formal regulations and procedures.

Whether companies and organisations are familiar with the equal treatment regulations also depends on publicity campaigns and information provision. Intermediaries such as trade associations appear to play an important role in the distribution of information on equal treatment legislation and regulations. Information contained in brochures from the Ministry of Social Affairs and Employment seems to be less effective. The inclusion of regulations in collective labour agreements is not a direct way either to draw the attention of companies and organisations to the subject of equal treatment. This does not mean that agreements of this kind are not useful. They may result in the development of initiatives at national or regional level that contribute to a reduction in unequal treatment on the labour market. They may also form a basis that enables individual employees to raise the matter of compliance with regulations on equal treatment (as appear from the study, for example as regards the entry into force of the equal treatment legislation in respect of age discrimination and disability or chronic illness).

According to expert and interest organisations that we consulted on the findings of the study, proper distribution of information and knowledge remains very important if the application of legislation and regulations is to be improved in practice. This recommendation is made in particular for legislation in the area of discrimination based on age and disability or chronic illness and for regulations and guidelines in the area of recruitment and selection. In particular, there is a need for examples of practical application that show what is and is not permitted according

to the regulations.

b. Implementation of the legislation and regulations in practice

Observance and implementation of legislation and regulations first requires knowledge and then time. It takes time to translate governmental legislation and regulations into policy and measures for one's own organisation. With regard to the implementation of the various laws and guidelines in the study, we see more or less the same pattern as with familiarity. The longer laws or regulations have been in force, the greater the degree of observance and of policy and measures aimed at realising application. By now the Medical Examinations Act is complied with on a very wide scale, even though there are still a lot of imperfections in this respect. This connection also appears from the relatively large number of companies and organisations that have made use of the possibility of affirmative action policy for target groups. This policy has been in effect since 1992. However, we can also see another development where affirmative action policy is concerned. Because the companies and organisations are free in their choice to introduce an affirmative action policy, some of the companies and organisations have already abolished it as it failed to deliver the expected results.

Poor or insufficient knowledge of legislation and regulations may also result in an incorrect assessment of a law. A lack of knowledge may result in the legislation sometimes being interpreted more strictly than is actually necessary. This appeared most clearly with regard to the Equal Treatment in Employment (Age Discrimination) Act. The legislator has often defined exceptions to general rules. The fact that these are subject to the important condition that these may only be invoked if the need can be demonstrated on objective grounds, does not detract from the importance of having the option of deviating from the strict prohibition.

Experiences with the affirmative action policy show that the importance of new legislation and regulations for business operations has an effect on the implementation of equal treatment legislation and regulations. The study shows that as companies and organisations see more advantages for their own business operations in the application of certain rules, they will make a greater effort to develop appropriate policy and measures. This appears, for example, from the motives of organisations for pursuing or not pursuing an affirmative action policy. We also

saw that business interests play a role in the reasons for compliance with the Medical Examinations Act.

The reverse also applies. If there are no clear parallels between business interest on the one hand and the application of equal treatment regulations on the other, or – what is more – if organisations have contradictory experiences, it is more likely that appropriate policy and measures will not be developed. An example of this is the apparent struggle of companies and organisations with the ban on performing pre-employment medical examinations. Other – equally prohibited – ways are now being used to obtain a picture of a person's health issues and absenteeism history. The round of consultation among expert and interest organisations confirmed that interest considerations and risk calculation affect the initiatives of companies and organisations to bring themselves into line with the requirements of regulations and equal treatment legislation.

The implementation of equal treatment legislation and regulations is also affected by the picture that companies and organisations have of their own policy. It was noticeable that a predominantly negative reaction was received to the question whether the legislation and regulations in the various areas result in modifications to the personnel policy. The view is held that the personnel policy already sufficiently complies with legislation or regulations in that area. However, only a very small number of organisations base this opinion on actual comparison of their own policy and measures with the rules applying for the area concerned. Companies and organisations seem to assign little urgency to assessing their own policy in this way.

Partly in view of the reactions from this round of consultation, a few question marks are in order regarding to the attitude of companies and organisations that there is nothing wrong with their policy on equal treatment of personnel and job applicants. The assumption is that companies and organisations tend to regard themselves and their own policy too favourably. However, the study does show on a number of points that the (new) legislation has made companies and organisations more aware of the fact that equal treatment policy is an aspect of organisational and personnel policy that is in need of attention.

c. Attitude towards legislation and regulations

The implementation of legislation stands or falls with the basis for the objectives of the law. This applies particularly if it is difficult to enforce compliance with the rules. The latter is the case with many laws in the area of equal treatment. Equal treatment is often expressed most strongly in the way in which employees in a company or organisation deal with one another and with (potential) newcomers. In general it is very difficult to demonstrate with 'firm' evidence that there is unequal treatment. In the study the role of age in decision making on recruitment or rejection is stated in this connection: age is one of the criteria on which an applicant is assessed. It is difficult to demonstrate that age has been the most important factor in rejecting an applicant. However, it is patently obvious how difficult it is for older people to find a job or to change jobs. *Mutatis mutandis* this applies to other population categories for which legislation has been developed in the area of equal treatment.

It may be concluded that the organisations questioned endorse the objectives of equal treatment legislation on a large scale. Opinions on good entrepreneurship and the normal standards of decency as guidelines for action play a role here. At the same time, it must be concluded that companies and organisations believe that the legislation and regulations should not strongly affect the autonomy of the company and the organisation. In addition to guarding one's own freedom of action and (organisational) interests, companies and organisations are of the opinion that the government already interferes (too much) in matters that affect normal business operations. Companies and organisations seem to want to determine themselves what initiatives in the area of equal treatment they will develop within the margins of their business operations. As far as the government plays a role, it is a facilitating one. The companies and organisations prefer to fight their own battles.