



National Coordinator against  
Discrimination and Racism  
*Ministry of the Interior and  
Kingdom Relations*

# National Program against Discrimination and Racism 2022





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National Coordinator against  
Discrimination and Racism  




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See also: <https://np2022.bureauncdr.nl/en/>

Driven by   
equality.

 Together for  
inclusion.



# 1. Introduction



Article 1 of the Dutch Constitution reads as follows:

*‘All persons in the Netherlands shall be treated equally in equal circumstances. Discrimination [...] on any [...] grounds whatsoever shall not be permitted.’*

The first article of the Dutch Constitution is devoted to the right to equal treatment that everyone in the Netherlands enjoys and unequivocally states that discrimination is not permitted. This is an instruction to the legislature, the administration, the judiciary and society to treat people equally in equal circumstances when setting rules or taking decisions. Although the articles of the Constitution are not subject to any order of priority in formal legal terms, equal treatment nevertheless forms the basis, the starting point and the first condition for a just society.

In the summer of 2020, Black Lives Matter protests were seen across the globe. The people who took to the streets were driven by the brutal death of George Floyd in the United States. Floyd’s death became a symbol of intolerance and injustice, including in the Netherlands. In June 2020, the Dam Square in Amsterdam welcomed thousands of people seeking to call attention to racism as an institutional problem. The serious failings in the childcare benefit system, causing citizens to be labelled frauds merely because of arbitrary characteristics such as nationality, religion or ethnicity,

have opened the eyes of the Dutch people to the many-headed monster of discrimination.

The Dutch government heeded this call from society. It spoke with representatives of society and held debates in the Dutch Parliament, which resulted in the appointment of a National Coordinator against Discrimination and Racism. The appointment is not the end, but rather a start. The Dutch government is shouldering its responsibility and is taking steps to arrive at a widely supported view on how to tackle discrimination and racism. Such an approach would put society and Dutch citizens first and would connect and strengthen the Ministries involved and the other stakeholders.

Counteracting discrimination and racism is an enormous task that calls for an approach covering many aspects. At the same time, there is a risk that the approach will become fragmented. Several Ministries are responsible for Dutch antidiscrimination policy. The Ministry of the Interior and Kingdom Relations coordinates the antidiscrimination policy in general and local responses in particular. The Ministry of Education, Culture and Science coordinates the emancipation policy, focusing on LGBTIQ+ and gender equality, and promotes citizenship and social safety in education. The Ministry of Social Affairs and Employment endeavors to tackle discrimination in the labor market and to promote a preventive approach to discrimination based on origin, religion or color. The Ministry of Health, Welfare and Sport coordinates efforts towards unhindered participation in society of people with a disability and seeks



to counteract discrimination in sports and healthcare. The Ministry is also responsible for WW II commemorations, including for commemorating the Holocaust. Finally, the Ministry of Justice and Security is charged with legal protection of all those residing in the Netherlands. The appointment of the National Coordinator – who is to connect these departments and themes more expressly in collaboration with an interdepartmental steering group – dovetails with a recommendation from the Netherlands Institute for Social Research, which calls on the government to “transcend traditional policy silos”.<sup>1</sup>

A study from the Netherlands Institute for Social Research<sup>2</sup> reveals that more than twenty-five percent of the Dutch population have recently experienced discrimination. This high rate is sharply at odds with the importance that the Dutch as a society attach to equal treatment, witness the Dutch Constitution. Discrimination causes not only severe personal suffering; society suffers from it as well, as the Netherlands Institute for Social Research has also indicated. “When people experience discrimination, this affects them in one way or another. Some people withdraw from society to some extent; they feel less involved and less motivated to contribute to that society. Other people start feeling insecure, feel unsafe, get stressed or retreat to an environment where they expect they will not encounter discrimination. As such, discrimination impacts not only individuals, but society at large.” Discrimination and racism directly affect people’s health, wellbeing and dignity, thereby precluding fully fledged and equal participation in society.<sup>3</sup>

In the past few years, laws and regulations created in the Netherlands were based on institutionalized distrust among politicians and the government towards citizens. This was apparent, for example, in taxes, social security, youth care/healthcare and education, but in some cases it also turned out to be implicitly directed at specific groups of people in our society.

This has contributed to a growing breach of trust in society between large groups of citizens and politicians and the government. The question is how the human dimension can be restored and how the system can be changed rather than having citizens go through the mill. How can the government return to serving citizens rather than the other way round? How can we return to putting people first rather than the system? How do we accomplish that human dignity takes center stage in all contact between citizens and the government? How do we create a more inclusive society in which the majority also looks after minorities? How do we increase trust in the institutions of our democratic state under the rule of law and the principles of our fundamental rights, where procedures are in place that are intended to prevent bias and arbitrariness and that do not move away from the human dimension. Where the checks and balances between our institutions are effective and where a fundamental dialogue contributes to careful and transparent balancing in laws and regulations of goals that may be mutually conflicting, but always bearing in mind the rights of minorities.

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1. The Netherlands Institute for Social Research recently advised the government to abandon levels of government, policy silos and structured systems as starting points for its reasoning and to start collaborating with a focus on the task at hand. It recommended that existing structures should not guide decisions, but rather the specific characteristics of the tasks lying ahead. This includes involving citizens and other parties – both public and private parties – needed to arrive at solutions (*Reflectie op het regeerakkoord 2021-2025 vanuit het burgerperspectief*, Netherlands Institute for Social Research, p. 5).
  2. *Ervaren discriminatie in Nederland II*, Netherlands Institute for Social Research, 2020, pp. 11 and 12.
  3. See the report *Ongekend onrecht* (‘Unprecedented Injustice’) of the Childcare Allowance Parliamentary Inquiry Committee and the report *Gelijk recht doen* (‘Do Equal Justice’) of the Parliamentary Investigative Committee on the Effectiveness of Antidiscrimination Legislation established by the Senate.

Living together in diversity brings various challenges to be tackled by the government, as well as other actors and individuals, if this is to become a success. The government's role ensues from its best-efforts obligation to ensure that citizens can live together in diversity, which entails that the government must foster the bond and mutual understanding between groups of people in society and prevent polarization and mutual alienation. Being subject to a firm obligation to protect all citizens from discrimination and racism, the government must also reflect on its own actions and the effects that the implementation of certain legislation has on specific groups of citizens. The government must lead by example where the above is concerned, putting the bond and trust between citizens and the government first.

This National Program is the first program the National Coordinator against Discrimination and Racism (NCDR) offers to the Government and, as a result, to Dutch society. This National Program reflects a people-oriented approach, which means that people's experiences take center stage. In the Netherlands we all too often think in terms of bureaucratic processes, whereas issues of racism and discrimination call for a consideration of the lived experiences of individual people and how these experiences affect them.

Eliminating discrimination and racism is a lengthy process. This program is the first in a series and gives impetus to multi-annual coordination in tackling discrimination and racism. This program is not the end; it is the first step in a continuing process. The NCDR seeks to create a wide and permanent connection with society and the Ministries involved with the aim of strengthening the approach to discrimination and racism. The numerous talks and meetings the NCDR has had in recent months show that there is much to be gained on this issue. This is a lengthy process that calls for patience, no matter how hard it may be. The NCDR will continue to identify problems, boost policy efforts, place issues on the agenda and encourage bonding and bridging between society and government.







Blijf jij aan de zijlijn staan bij discriminatie en racisme?

DE MELDER

Nationaal Coördinator tegen Discriminatie en Racisme

Gedreven door gelijkwaardigheid, samen voor inclusie

[www.bureauncdr.nl](http://www.bureauncdr.nl)

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**RABIN BALDEWSINGH, NATIONAAL COÖRDINATOR TEGEN DISCRIMINATIE EN RACISME**

- Oud-wethouder gemeente Den Haag met onder de portefeuilles Burgerzchap (2006-2010), Volksgezondheid (2010-2014) en Sociale Zaken, Armoedebeleid en Werkgelegenheid (2014-2018)
- Momenteel Nationaal Coördinator tegen Discriminatie en Racisme
- Gaat ons vertellen wat de functie van Nationaal Coördinator tegen Discriminatie en Racisme inhoudt
- Gaat ons vertellen waarom onze input vanavond noodzaak is in de opdracht die hij heeft gekregen

Speaker in a dark blue polo shirt holding a microphone and a tablet.

Speaker in a dark suit, glasses, and a white shirt, holding a microphone.

Speaker in a dark jacket and blue shirt, standing near a podium.



## 1.1 National Coordinator against Discrimination and Racism

### Motto

Driven by equality. Together for inclusion.

### Mission

The National Coordinator against Discrimination and Racism is tasked with bonding and bridging, boosting policy efforts and overseeing their implementation when it comes to tackling discrimination and racism. The National Coordinator against Discrimination and Racism will promote equality, justice and inclusivity in the European and Caribbean Netherlands.

### Vision

We wish for the Netherlands to be an inclusive society in which no one is excluded.

We will strive to improve cooperation, bonding and bridging between government, politics and society in tackling discrimination and racism.

We will fight discrimination and racism on all grounds and within all domains in favor of equality for everyone in the European and Caribbean Netherlands.

Being in charge of bonding and bridging, boosting policy efforts and overseeing their implementation, the NCDR's role is threefold. The NCDR engages in dialogue with society, organizations and the Ministries involved; the NCDR continues to place the topics of discrimination and racism on the Government agenda and to hold up a mirror to society; and the NCDR will see to it that the aims of the National Program are achieved.

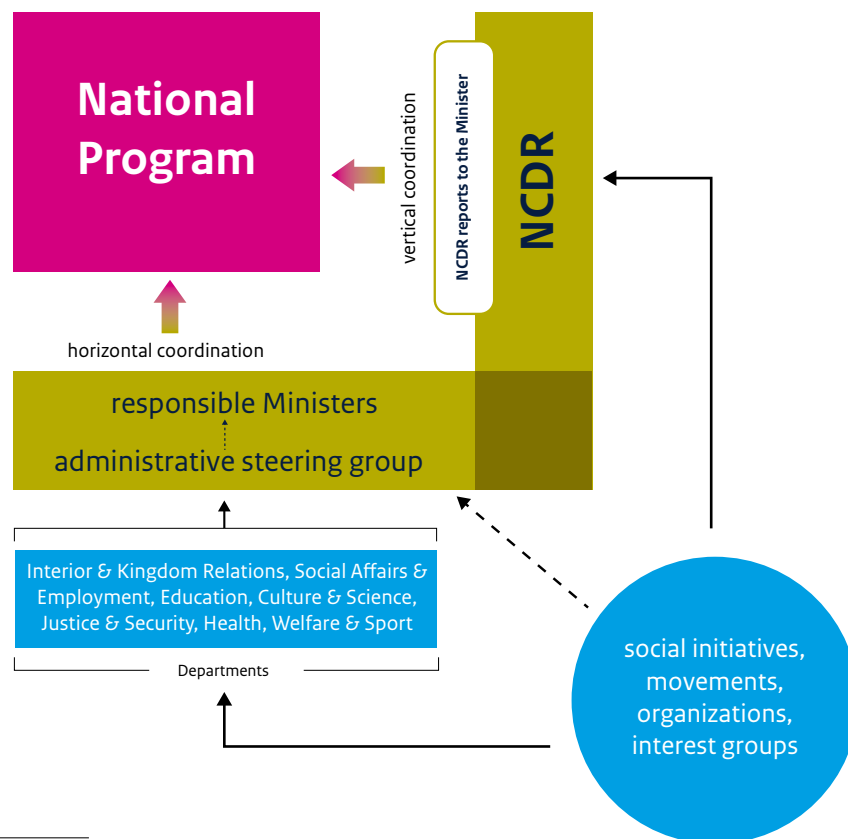
### Task

The NCDR reports to the Minister of the Interior and Kingdom Relations and also works alongside the Ministry of Justice and Security, the Ministry of Social Affairs and Employment, the Ministry of Health, Welfare and Sport, and the Ministry of Education, Culture and Science. The Ministers of these departments themselves remain responsible for the development, setting out and implementation of the policy.

The NCDR is charged with:

- consulting and maintaining relationships with social initiatives, movements and interest groups, as well as with the administrative bodies and companies involved;
- drafting a National Program consisting of a multi-annual component and an annual action program;
- urging all stakeholders to reach the goals laid down in the National Program.





4. The NCDR would like to thank all civil society organizations that helped organize the town hall sessions. It was because of their efforts that we were able to reach so many people in such a short period of time.

The profile and remit previously shared with the Dutch Parliament included the flowchart below to illustrate the NCDR's task. The chart also reflects the complexity of the task.

### Town hall sessions

In March, April and May 2022, the NCDR organized over twenty town hall sessions in collaboration with partners from different sections of society.<sup>4</sup> The purpose of the sessions was to receive ideas from society and experts about possible reinforcement measures to be taken to supplement the current antidiscrimination policy. These measures are set out and explained in this National Program. The sessions were held both online and physically all over the country. Countless people and organizations, ranging from educational institutions to interest groups and from policymakers to experts by experience and other experts, joined in the discussions.

### The National Program

The first concrete assignment given to the NCDR was the preparation of this National Program, in which the lived experiences of individual people take center stage. The structure of the program is based on situations where individuals may encounter discrimination and racism in society. First of all, the program discusses all efforts focused on acknowledging and preventing discrimination and racism. Then, it zooms in on policies aimed at reinforcing the recognition and reporting of any discrimination and racism experienced. Finally, it considers ways to assist and protect victims through both empowerment and legal means.

As discrimination must be tackled in all its aspects, this program addresses the various discriminatory grounds and domains where society discriminates against individuals or groups of people. Partly based on discussions held in society, the NCDR has established that discrimination in the labor market, in the housing market and in healthcare needs to be given more attention. This first year, the NCDR also addresses anti-Black racism and discrimination against Muslims in particular, with an emphasis on ethnic profiling and institutional racism and a special focus on discrimination against LGBTIQ+ persons.

This National Program should be regarded as a continuing process. Being the first National Program, its structure had to be established along the way and not all topics could be dealt with exhaustively. What remains is the ambition to fully cover all issues related to discrimination and racism in this National Program in due course.





**Looking ahead**

As the numerous discussions and town hall sessions organized in the past period have emphasized the importance of maintaining a constant dialogue with society, the NCDR will continue these discussions and sessions in the second half of 2022 and beyond. The NCDR is exploring ways to make these consultations permanent, for instance by setting up a social advisory council. In short, the NCDR has set himself the goal of continuing to issue recommendations based on input from various sources in society.

**Reader's guide**

The National Program provides an overall view of current policies that the Ministry of the Interior and Kingdom Relations, the Ministry of Social Affairs and Employment, the Ministry of Education, Culture and Science, the Ministry of Health, Welfare and Sport and the Ministry of Justice and Security use to combat discrimination and racism. When reading the National Program, readers will also come across text in boxes. These are proposed policy reinforcement measures: new initiatives intended to re-energize the fight against this injustice in Dutch society.



‘Not everything that  
is faced can be changed,  
but nothing can be  
changed until it is faced.’

**James Baldwin**

## 2. Acknowledgement and prevention



## 2.1 Introduction

In the Netherlands, everyone is equal before the law. Having said that, we sometimes see the opposite in practice. Not everyone has the same opportunities and more than one in four Dutch people have experienced discrimination.<sup>5</sup> Individuals or groups of people are treated differently, come second or are excluded from full participation in society based on personal characteristics or other features. This is seen in interaction between citizens themselves, but the government may also be guilty of discrimination against citizens.

If the government is to change this and prevent discrimination, it must first acknowledge that – and to what extent – discrimination exists and what forms it may take: racism, sexism, xenophobia, homophobia, transphobia, ableism, antisemitism, anti-Black racism, discrimination against Muslims and other forms of exclusion.

For too long, the Dutch government and Dutch society have argued that institutional discrimination does not exist and hoped that this problem would simply disappear if they looked away. At the same time, people were afraid to publicly address the issue of racism. As people in the Netherlands are accustomed to seeking consensus, it takes time to bring about change. But looking away does not yield any benefits for us as a society. The time has come to abandon this attitude and accept that discrimination causes suffering and loss in our society as well. If we do so, we demonstrate that we as a society are becoming mature and that we have started to take a serious

stance towards the non-discrimination principle underpinning our Constitution and society. Acknowledgement indicates growth of our society and is the first step in tackling discrimination.

A large part of society also demands this acknowledgement by organizing demonstrations, establishing interest groups and initiatives and drawing up manifestos. Groups of people suffering from prejudicial treatment are making their voices heard and are claiming their rightful place in our society.

We should also appreciate and acknowledge that history is not always written objectively and is made from a presumed ‘objective’ academic perspective, which produces a one-sided and incomplete picture that does not do justice to the experiences of different groups in Dutch society. We need to allow for history lessons of different groups of people in the Netherlands and we need to know about our shared history if we are all to be effectively equal and to be treated as such. Events to be considered here include the history of slavery, the Holocaust, Roma and Sinti, the Moluccan community, guestworkers, the LGBTIQ+ community, the Asian community, and the emancipation of women and people with a disability.

Politicians are also increasingly interested in this issue. The National Coordinator for Combating Antisemitism was appointed in April 2021, followed by the appointment of the NCDR in late 2021 and the appointment of the Government Commissioner for Sexually Transgressive Behavior and Sexual Violence in April 2022.

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5. *Ervaren discriminatie in Nederland II*, Netherlands Institute for Social Research, 2020.

The Government will present a national action plan to combat sexually transgressive behavior and sexual violence in the autumn of 2022, the outlines of which were shared with the Dutch Parliament on June 27, 2022.<sup>6</sup> The Government has also recently agreed to the establishment of a State Commission against Discrimination and Racism, which will investigate the extent of discrimination and racism in the Netherlands. The investigation will cover all sectors of society and will include an audit to identify ethnic profiling and discrimination within the government. The State Commission will draft its own working program and, for this purpose, will consult with all relevant actors, including the NCDR. The NCDR identifies signs in society and shares his views and suggestions for investigations with the State Commission. This testifies to the Government's intention to safeguard these themes within the government and to address the issues in a comprehensive way.

The coalition agreement also acknowledges that the discrimination issue is a social problem: "We want everyone in the Netherlands to be able to be free. Free to be who they are. Free from discrimination and racism. Free to develop themselves. It still happens too often that people in the Netherlands are given fewer opportunities or are excluded on the basis of their origin, gender, color, race, age, beliefs, sexual orientation or disability. This is unacceptable."<sup>7</sup>

Acknowledgement may take many forms. The Netherlands boasts a strong tradition of commemorating events, for example. Acknowledging that suffering and loss were caused in the past may

*'We want everyone in the Netherlands to be able to be free. Free to be who they are. Free from discrimination and racism. Free to develop themselves.'*

*Looking out for each other, looking ahead to the future', 2021-2025 Coalition agreement*

help society to collectively deal with this fact. Events in this context include the Remembrance of the Dead on May 4 and Liberation Day (May 5), the Holocaust remembrance and the celebration and commemoration of the abolishment of slavery during Ketikoti.

It is necessary to truly take responsibility when the government itself caused the suffering and loss. This was the case, for example, with the involuntary sterilization of transgender people until 2014. On November 27, 2021, the Government apologized for the former Gender Change Act, which was in force from 1985 until 2014. Then Minister Dekker for Legal Protection said at the time: "I hope our apology will contribute to wider social acknowledgement of this suffering."

We are seeing a social movement towards the more express acknowledgement of the Dutch history of slavery. The municipal authorities of Amsterdam, Rotterdam and Utrecht, for example, apologized for the active involvement of city authorities in the commercial system of colonial slavery and the global trade in

6. *Parliamentary Documents II 2021-2022*, 34 843, no. 58.

7. *Omzien naar elkaar, vooruitkijken naar de toekomst*, 'Looking out for each other, looking ahead to the future', 2021-2025 Coalition agreement – People's Party for Freedom and Democracy (VVD), Christian Democratic Alliance (CDA), Democrats '66 (D66) and Christian Union (CU), p.25.



enslaved people. “Only if we listen to each other attentively can we arrive at a new perspective on our common past – a new narrative where everyone truly has their place and in which we work towards an equal society together,” said Linda Nooitmeer (*Nationaal instituut Nederlands slavernijverleden en erfenis*, the national institute for the Dutch history of slavery and legacy) in response to the apology that Mayor Halsema had made in the name of the Amsterdam city authorities. The authorities of The Hague are also considering offering an apology; in other countries, cities such as London, Liverpool, Chicago and Charleston have already apologized. Other levels of government, such as the provinces, are also taking a critical look at their role in history. The province of Noord-Holland, for instance, was the first Dutch province to apologize for its role in the history of slavery during the regional Ketu Koti celebration and commemoration in Haarlem on July 1 this year.<sup>8</sup>

Apart from cities that are taking or considering taking this step, there are other social and commercial actors that participate in this movement towards acknowledgement. At this year’s national Ketu Koti celebration and commemoration, the Dutch Central Bank apologized for its role in the history of slavery and set up a fund for long-term projects that help reduce the effects of the history of slavery.<sup>9</sup> ABN AMRO was the first commercial bank to offer an apology.

The NCDR has received numerous responses to the serious failings in the childcare benefit system. In town hall sessions where discussions

centered on how the government should tackle institutional discrimination, the answer was often that it all starts with acknowledgement. This process is only initiated if the government is truly receptive to signs of discrimination in society. Next, it must have the will to adopt an attitude of critical self-reflection, which entails taking a critical look at laws, policies, processes and the workplace environment. The question to be asked here is whether certain laws and policies might lead to the exclusion of some people or groups of people or to them being hit disproportionately. The first steps have now been taken. In February, the Government launched a round of consultations to gain a better understanding of constrictive laws and rules. Every Ministry examines the relevant laws and rules and does so in various ways, for example by engaging with organizations implementing these laws and rules. And, on June 14, 2022, the Parliamentary Investigative Committee on the Effectiveness of Antidiscrimination Legislation established by the Senate published its investigation report *Gelijk recht doen* (‘Do Equal Justice’) about the options the legislature has at its disposal to combat discrimination more effectively.<sup>10</sup>

The lack of countervailing power and reflection has created problems for groups of people in our society due to the effects of certain laws and policies that encouraged exclusion and systemic discrimination. This chapter addresses current policy and policy interventions aimed at acknowledging and preventing discrimination and racism.

8. [https://www.noord-holland.nl/Actueel/Archief/2022/Julij\\_2022/Excuses\\_provincie\\_Noord\\_Holland\\_voor\\_slavernijverleden](https://www.noord-holland.nl/Actueel/Archief/2022/Julij_2022/Excuses_provincie_Noord_Holland_voor_slavernijverleden).

9. <https://nos.nl/artikel/2434845-de-nederlandse-bank-biedt-excuses-aan-voor-slavernijverleden>.

10. [https://www.eerstekamer.nl/overig/20220614/hoofdrapport\\_gelijk\\_recht\\_doen\\_een/f=/vtsh-vc857zo\\_opgemaakt.pdf](https://www.eerstekamer.nl/overig/20220614/hoofdrapport_gelijk_recht_doen_een/f=/vtsh-vc857zo_opgemaakt.pdf).





Only if we listen to each other attentively can we arrive at a new perspective on our common past.

## 2.2 Current policy and policy reinforcements – General

### Intersectional approach

Discrimination and racism can only be effectively tackled if an intersectional approach is applied. Discrimination and racism manifest themselves at various times and in various ways, in which respect exclusion and prejudicial treatment based on various grounds – such as origin, color, gender, class, sexuality, religion and disability – merge and may result in specific types of discrimination and exclusion in society. A person may, for example, be excluded because they are black and Muslim or black and queer, or a Muslim woman may be treated with contempt in the streets because she wears a headscarf on account of her religion and gender.

Partly in response to the Black Manifesto and the Manifesto against Islamophobia, actions have been initiated on the theme of intersectionality. Aiming to explore options for the parties, including the national government, to work on an ‘intersectional approach’ for tackling discrimination and racism, the Ministry of Social Affairs and Employment has instructed that knowledge tables be organized on the issue with scientists, representatives, experts by experience and other experts from different communities and representatives from the antidiscrimination and antiracism fields of work. The results of these knowledge tables indicate that the perspective for action on intersectionality should be expanded.

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11. See the letter from the Minister of the Interior and Kingdom Relations of July 7, 2022 on the legal definition of ‘racism’.

### Racism

It would be a good thing for the Netherlands to more actively participate in celebrating March 21, the day marked by the United Nations as ‘International Day for the Elimination of Racial Discrimination’. On March 21, in countries all over the world people remember the injustice resulting from discrimination. The NCDR will actively take the lead by annually organizing a series of activities to celebrate this day, whenever possible in collaboration with all Antidiscrimination Agencies.

The Government intends to investigate the consequences of re-assessing the term ‘race’ in the Constitution. The Minister of the Interior and Kingdom Relations commissioned the Netherlands Institute for Human Rights to advise on the legal definition of the term ‘racism’. This advice was shared with the Dutch Parliament in early July.<sup>11</sup> In response to this advice, in-depth discussions will be held with the Institute and various parties on the terms ‘race’ and ‘racism’. This is how the Government implements the recommendations issued by the UN Committee on the Elimination of Racial Discrimination on the topic. This intention follows up on signals and stories the NCDR has heard in society. The NCDR supports this undertaking because the word ‘race’ is highly charged for many Dutch people. The term ‘race’ in Article 1 of the Constitution is legally defined as a collection of notions such as color and ethnicity. Although in legal terms it does not refer to the term ‘race’ as a ‘social construct’, it does remind us of periods in history and situations in which ‘race’ was used to distinguish between people and justify unequal treatment.

### History of slavery

At an interdepartmental level, several initiatives are being developed – such as remembrance year 2023 and the creation of a National Museum of Slavery – to increase knowledge about and raise awareness of the history of slavery and the colonial past, as well as their continued effects and the consequences they have for the social position and inclusion of people of African, Afro-Surinamese and Afro-Caribbean origin. In its final report *Ketenen van het verleden* ('Chains of the Past'), the Advisory Board of the Dialogue Group on the History of Slavery states that acknowledgement is an important step for the Netherlands as a whole and indicates that, on the one hand, acknowledgement provides satisfaction to those who suffered from slavery and, on the other hand, promotes a critical view of Dutch history in a broader sense. The NCDR fully endorses this. During introductory meetings and town hall sessions, the NCDR spoke with many people and discovered how strongly they feel about acknowledgement. This is why remembrance year 2023 is of paramount importance to them.

Remembrance year 2023 provides the Dutch government with an important opportunity to mark the country's awareness of mistakes made in the past and of the harmful consequences of the system of slavery and the commercial trade in enslaved people. Although the focus will be on the history of transatlantic slavery, the remembrance year will also allow all communities to commemorate the history of slavery and the subsequent period of indentured servitude. These communities include the original inhabitants of Suriname and the

islands, who were the first to be enslaved, the Chinese community brought to Suriname to perform indentured labor before slavery was abolished in 1858, and the Indo-Surinamese and Javanese communities that arrived in Suriname from 1873 and 1890 onwards, respectively. These groups, too, are part of our shared past. The Dutch government envisages a year filled with bonding and bridging activities, where there is time to commemorate and to celebrate, and that permanently increases knowledge about and awareness of the history of slavery and its effects today.

During introductory meetings and town hall sessions, the NCDR has heard many people say they expect the Dutch government to offer a formal apology, partly inspired by the example set by local authorities and the private sector as stated above.



The Government is willing to enable descendants of enslaved people to change their name free of charge.

In consultation with the parties involved and considering the results of an academic study and the challenges associated with implementation, the Government will decide in late 2022 how this will be achieved.

The history of slavery is still underappreciated in our society, even though there is so much to say. This past has marked people for life. Although the annual Slavery Remembrance Day held on July 1 in the Oosterpark in Amsterdam already has national aspects (including a speech by a government representative) and has received structural national government funding since 2019, the NCDR nevertheless calls for a national day of celebration and commemoration to mark the abolition of slavery in the presence of the head of state. Such a decision would be of huge importance to the persons affected. It should be a national holiday: in the NCDR's opinion, starting in 2023 the day should be a national holiday once every five years.

Dutch streets also reflect a limited or one-sidedly white perspective on the history of slavery. Street names and statues of people who played an active role in this past are an integral part of our public space, often without any explanation. The NCDR calls for the provision of information about the roles these people have played in the history of slavery, for example by affixing a QR code to the relevant statue or street name sign, to increase awareness of, and access to, this part of the nation's history. This would follow on from the steps the municipal authorities of Hoorn,

Rotterdam and other towns have taken in respect of statues and monuments.

### **Institutional discrimination and ethnic profiling**

In the coalition agreement, the Government states that it seeks to fight institutional racism. The acknowledgement in the coalition agreement of the existence of deeply rooted forms of racism and discrimination is a major step, and the Government indicates that public-sector organizations and implementing organizations should set an example here. In May, the State Secretary for Finance acknowledged that institutional racism had occurred within the Tax and Customs Administration, including the Directorate-General for Allowances.

The Government defines 'ethnic profiling' and 'institutional racism' in accordance with the definitions provided by the Netherlands Institute for Human Rights. In December 2021, the Institute drafted both a human-rights review framework for ethnic profiling and a vision document on institutional racism.<sup>12</sup>

Seeking to raise awareness and ensure that ethnic profiling and institutional racism are eliminated, the Minister of the Interior and Kingdom Relations will team up with the Netherlands Institute for Human Rights for the government-wide roll-out of the review framework 'Discrimination through Risk Profiling'. Several activities have been developed to achieve this, such as a working group

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12. A description of institutional racism is provided in the letter from the State Secretary for Finance – Tax Affairs and the Tax Administration of May 30, 2022 on Further Requests regarding the Fraud Identification System.

consisting of representatives of implementing organizations who will convert the review framework into a workable instrument and webinars on how to apply the framework. Also, a handbook covering the constitutional review of new laws and regulations has been prepared and an implementation review has been developed, and training courses will be set up for lawyers to enhance their knowledge about discrimination. The interdepartmental network of complaints officers also considers the National Ombudsman's recommendations contained in the report *Verkleurde beelden* ('Colored Pictures') on how to handle ethnic profiling complaints, and the State Commission against Discrimination and Racism will conduct a broad audit of the government to identify cases of discrimination and ethnic profiling in accordance with the motion submitted by Azarkan et al.<sup>13</sup> More specifically, in implementation of the motion submitted by Belhaj et al.,<sup>14</sup> the State Commission will advise the government about the question whether it is possible and desirable to introduce a prohibition for government agencies to use ethnicity as a criterion when combating fraud and, in implementation of the motion submitted by Mutluer et al.,<sup>15</sup> about the possibility to make a distinction based on race and nationality in risk profiles only where this protects or supports people.

The Netherlands Institute for Human Rights states that ethnic profiling may be defined as the use of selection criteria such as race, color, language, religion, nationality or national or ethnic origin by government agencies when exercising their supervisory, enforcement and investigative powers without these agencies being

able to provide any objective and reasonable justification for this. This may be avoided if these agencies use a risk profile, i.e. a selection criterion or a collection of several selection criteria that is used to estimate a particular risk of standards being violated and to make a selection decision. Such a risk profile may take the form of an algorithm.

Discrimination – within the meaning of Article 1 of the Constitution – resulting from the use of risk models must be avoided at all times. The Government is not in favor of completely terminating the authorities' use of risk models, as the impact on all types of services, supervision, enforcement and other government tasks will be too substantial. Instead, the Government assesses legitimacy (whether the use of such models is permitted under the applicable laws and regulations) and improper use (whether objective justification exists in addition to a legal basis). Any unlawful and/or improper use of these risk models is terminated and all resulting polluted data is deleted.

Under the coordination of the Ministry of the Interior and Kingdom Relations, the departments and implementing agencies are currently investigating any unlawful or improper use of origin-related indicators in risk models in their respective policy areas. The final report is due to be published no later than the end of 2022.<sup>16</sup>

Additional instruments have been developed for personal data processing based on algorithms to guarantee that the algorithms

13. *Parliamentary Documents II*, 2019-2020, 35510 no. 33.

14. *Parliamentary Documents II*, 2020-2021, 30 950 no. 237.

15. *Parliamentary Documents II*, 2021-2022, 30 950, no. 293.

16. In a motion that MP Marijnissen (SP party) et al. submitted on January 19, 2021, the government was asked to come up with a proposal for removing polluted data, risk models and the nationality criterion within all government institutions. The motion was submitted in response to the risk models and discriminatory selection rules emerging from the *Ongekend onrecht* report drawn up by the Childcare Allowance Parliamentary Inquiry Committee.

are designed and used in a responsible way. Utrecht University, for example, has developed the Fundamental Rights and Algorithms Impact Assessment,<sup>17</sup> an instrument that can be used before an algorithmic application is created, and Tilburg University has drafted the handbook ‘Non-discrimination by design’,<sup>18</sup> an instrument that can be used to create an algorithmic application.

Finally, the Ministry of Justice and Security has prepared “Guidelines for Algorithm Application by Governments and public education on data analyses”.<sup>19</sup> In line with the Bouchallikh-Dekker-Abdulaziz motion, the Government has opted to impose an obligation to use the Fundamental Rights and Algorithms Impact Assessment when any party within the national government develops a high-risk algorithmic application. These instruments supplement the Integrated Impact Assessment Framework (*Integraal Afwegingskader*; IAK) and the Data Protection Impact Assessment (DPIA). As algorithms may have the effect of promoting inequality even where this was not intended or anticipated, in addition to preventive instruments regular studies should also be conducted of the effects of any algorithms put to use. A survey will be conducted to find out to what extent the relevant public services and local authorities are familiar with the ‘Non-discrimination by design’ handbook and to what extent its recommendations are being implemented. The Ministry of the Interior and Kingdom Relations has collected all available instruments in the Data-Driven Work Toolbox and the Ethically Responsible Innovation Toolbox.<sup>20</sup>

In the spring of 2021 the Ministry of Education, Culture and Science received the exploratory study identifying stakeholders and potential interventions in the areas of artificial intelligence (AI), gender and the labor market, which also lists interventions at the macro, meso and micro levels. The Ministry works at the meso level, partly by subsidizing the conference held on this topic on May 18, 2022, by continuing the dialogue about facilitating awareness and through meetings to be held next autumn. The Ministry has also commissioned an exploratory study of potential AI interventions called ‘AI and LGBTIQ+ emancipation’. The corresponding report is expected to be issued this summer and will form the basis for the Minister’s decision on follow-up action to be taken on this specific theme. Finally, the Ministry of Education, Culture and Science provides expertise on gender, gender diversity and sexual diversity to various bodies that are preparing an overall AI and non-discrimination policy, for example by giving input on the non-discrimination handbook of the Ministry of the Interior and Kingdom Relations.

The Government minimizes the use of risk profiles comprising specific personal characteristics. Public and private organizations that use datasets and algorithms should have them regularly tested for potential discriminatory effects and inclusivity. An algorithm watchdog will be established as quickly as possible to monitor transparency, discrimination and arbitrariness.

17. Fundamental Rights and Algorithms Impact Assessment (FRAIA) | Report | Rijksoverheid.nl.

18. <https://www.rijksoverheid.nl/documenten/rapporten/2021/06/10/handreiking-non-discriminatie-by-design>.

19. <https://www.rijksoverheid.nl/documenten/richtlijnen/2021/09/24/richtlijnen-voor-het-toepassen-van-algoritmen-door-overheden-en-publieksvoorlichting-over-data-analyses>.

20. <https://www.digitaleoverheid.nl/overzicht-van-alle-onderwerpen/nieuwe-technologieen-data-en-ethiek/het-led/toolbox/> and <https://www.digitaleoverheid.nl/overzicht-van-alle-onderwerpen/nieuwe-technologieen-data-en-ethiek/publieke-waarden/toolbox-voor-ethisch-verantwoorde-innovatie/>.



### Local policies

Municipal authorities have an important role to play in tackling discrimination. Being the local government organization, a municipal authority knows best what is going on locally. The Government encourages municipal authorities to develop antidiscrimination policy and recommends that they develop separate policies and create links with existing policies. The policies must be visible to and noticeable for citizens. This holds especially true when few reports of discrimination are received because, all too often, instances of discrimination are not reported.

This requires first of all that municipal authorities are aware of the current status of local antidiscrimination policy. The Inclusion & Community Platform (*Kennisplatform inclusief samenleven*; KIS) has initiated a study to assess how municipal authorities handle this issue.

Seeking to support municipal authorities in developing policy, the national government has drafted several guidelines providing specific knowledge and a perspective for action. The Minister of the Interior and Kingdom Relations alerts municipal authorities to the updated 'Handbook on Antidiscrimination Policy for Municipal Authorities' and the handbook 'No Room for Discrimination', stressing the importance of stepping up the efforts made to tackle discrimination. The Ministry intends to collate this information on a single platform, a knowledge portal that supports municipal authorities in fighting discrimination. The Ministry of the Interior

and Kingdom Relations will also offer master classes to municipal authorities and will put local policy in the spotlight on a national day to be organized for all municipal authorities, where bottlenecks will be addressed that emerge from KIS's ongoing study of local antidiscrimination policy. Every municipal authority should have an explicit antidiscrimination policy in place.

As part of the process of strengthening local policy, the national government has developed a few guidelines. All municipal authorities will be advised of these guidelines, which contain good practices for local antidiscrimination policy. Municipal authorities are currently also asked to provide information about the status of their local antidiscrimination policy in two studies: one by the Inclusion & Community Platform and one by the Ministry of the Interior and Kingdom Relations. The latter study entails that municipal authorities whose local antidiscrimination agency cannot be found on their website are called by national government representatives to discuss the situation.

The aforementioned guideline includes numerous examples of local efforts, such as drafting a framework policy document or a long-term agenda, embedding the approach in the coalition agreement or earmarking funds in the budget. An obligation for the Municipal Executive to annually report to the municipal council on the discrimination policy pursued will also contribute to further securing policy implementation, in the NCDR's opinion. Having said that, a precondition for tackling discrimination at a highly local level is a

strong antidiscrimination agency that is involved in the plans as a full-fledged partner.

The Municipal Antidiscrimination Agencies Act stipulates that municipal authorities must guarantee access to an antidiscrimination agency. Such an agency must be present in every municipality and is the local discrimination expert. Antidiscrimination agencies act as the linchpin between municipal authorities, the criminal justice system and other bodies.

If they are to properly fulfil this role in local approaches, securing strong antidiscrimination agencies having sufficient resources and expertise at their disposal and being easy to find and accessible for citizens is paramount.

The tasks assigned to antidiscrimination agencies are another aspect under consideration. The Municipal Antidiscrimination Agencies Act states that an antidiscrimination agency is charged with two statutory tasks, i.e. (1) independently assisting people in the processing of their discrimination complaints, and (2) registering complaints. When the tasks are to be potentially extended, a role in prevention or policy advice will be considered. The relationship between an antidiscrimination agency and other organizations contributing to the local approach, such as municipal authorities, the Netherlands Institute for Human Rights, the police and the Public Prosecution Service, will also have to be reassessed. The Ministry of the Interior and Kingdom Relations regards the antidiscrimination

agency as the linchpin in this regard. One of the questions to be answered is: how can an antidiscrimination agency play a relevant role in more places in the chain approach, for instance in the ZSM approach?<sup>21</sup> In addition to the study conducted in response to the Belhaj motion, the Ministry of Justice has commissioned a project identifying the entire chain process and the roles with the aim of improving the process. Another study currently ongoing on the instructions of the Ministry of the Interior and Kingdom Relations focuses on the question how to structure the reporting process so as to foster citizens' trust in the process and ensure that reports have clear added value for those making the reports. As soon as the study is completed in the autumn, the Ministry will set to work on the findings together with all parties and will organize a conference for all parties involved in the local approach and reports.

The antidiscrimination agencies should be strengthened. The Municipal Antidiscrimination Agencies Act charges antidiscrimination agencies with the tasks of registering complaints and supporting complainants. The antidiscrimination agencies should also be given a more explicit and preventive task in tackling discrimination. The Ministry of the Interior and Kingdom Relations will be contacting the Association of Netherlands Municipalities (Vereniging Nederlandse Gemeenten; VNG) and antidiscrimination agencies to discuss an approach.

21. The ZSM approach is an approach in the criminal justice system. ZSM stands for 'Zorgvuldig Snel Maatwerk' ('Careful, Fast and Customized'). In ZSM, the approach to every case is tailored to the perpetrator, the victim and society to do justice to their interests. More information about the ZSM approach: ZSM-aanpak bij veelvoorkomende criminaliteit | Strafrechtken.



Being the local government organization, a municipal authority knows best what is going on locally.



## 2.3 Current policy and policy reinforcements – Discriminatory grounds

### Anti-Black racism

The government has launched many initiatives to combat racism as part of the UN International Decade for People of African Descent, but many aspects of the approach have yet to be strengthened.<sup>22</sup> In response to the 2020 BLM protests and the subsequent meetings with the Prime Minister, an interdepartmental process was developed for the bottom-up reinforcement of efforts to tackle discrimination and racism. As part of this process, topics and points of concern – including those raised during the meetings with the Prime Minister and in the Black Manifesto issued later – are explored with various stakeholders and addressed where necessary and possible.

The Ministry of Social Affairs and Employment also plans to initiate an exploratory study of the perspective for action when it comes to helping people discuss racism in their own communities. This exploratory study ensues from a study of the causes of, and factors triggering, discrimination of persons of African descent (2021) and explores possible points of reference and instruments that people may use to discuss racist and discriminatory expressions and conduct in their own bubbles. This is how bystanders will be motivated to step in whenever they witness racism, how awareness is created among actual or potential perpetrators and how a social standard

is propagated to the effect that racism and discrimination are unacceptable.

### Antisemitism

Appointed by the Minister of Justice and Security on April 1, 2021,<sup>23</sup> the National Coordinator for Combating Antisemitism (*Nationale Coördinator Antisemitismebestrijding*; NCAB) advises the Minister of Justice and Security and is tasked with providing advice, boosting policy efforts, and bonding and bridging. The NCAB brings antisemitism expertise to the government and coordinates and supports collaboration between different Ministries and civil society organizations, thereby enhancing the infrastructure for tackling antisemitism both within the government and elsewhere. The NCAB is also charged with identifying problems in the Jewish community and monitoring which measures effectively safeguard security in Jewish communities. From 2019 to 2021, every year 1 million euros was made available to combat antisemitism. The NCAB's mandate is to advise on the possible follow-up of projects carried out using the antisemitism funds. The coalition agreement has given the NCAB's position a permanent status and has allocated a permanent annual budget of 500,000 euros.

In 2022, the NCAB will publish a National Work Plan<sup>24</sup> containing concrete and new action to be taken to combat antisemitism in the Netherlands, which is based on three pillars: 1) monitoring and follow-up; 2) education and prevention; 3) commemoration and celebration. Following up on the work plan, the NCAB will focus on

22. The UN has proclaimed the period from January 1, 2015 to December 31, 2024 the UN International Decade for People of African Descent. The Dutch interpretation of this Decade focuses on stepping up efforts to tackle discrimination and anti-Black racism. For more information, see *Parliamentary Documents II 2015-2016*, 30 950, 80, blg-610762.

23. Reference 3314219/21/DP&O.

24. The NCAB's work plan will be published on [www.antisemitismbestrijding.nl](http://www.antisemitismbestrijding.nl).

creating a National Strategy for combating antisemitism. The NCAB's work plan will also discuss current national and international policies, including projects ensuing from the national government's antisemitism funds, exchange of information with the International Holocaust Remembrance Alliance (IHRA) and the EU strategy for combating antisemitism.

The departments will also continue their efforts to tackle antisemitism. The Ministry of Health, Welfare and Sport subsidizes the education program of the Anne Frank House called 'Learning from the war', which educates teachers and young people about combating antisemitism and racism from the perspective of World War II (WW II). The Anne Frank House advises volunteers to influence behavior in their own circles: teachers, teenagers in schools, fans and coaches of soccer clubs and various government organizations, including the police. The Ministry of Health, Welfare and Sport also provides grants to the five Dutch WW II memorial centers that tell the story of WW II and connect it to current social issues such as the importance of the rule of law and of combating antisemitism, antiziganism and racism. *Nationaal Comité 4 en 5 mei* for the Remembrance of the Dead on May 4 and Liberation Day (May 5) provides education products for primary, secondary and senior secondary vocational education.

Education is key to promoting a respectful society and counteracting racism and discrimination in all its forms. The curriculum for the start

of primary education up to the end of secondary education expressly states that the horrific events of the Holocaust must be discussed.

In addition to Holocaust education, the Dutch government also seeks to revamp civic education with the aim of helping pupils understand and gain knowledge about each other's cultures and religions and countering intolerance. The new Civic Education Act was passed by the Senate on June 22, 2021 and entered into force on August 1, 2021 and has increased the mandatory nature of the rules for civic education in both primary and secondary education. Training courses and a helpdesk provide support to teachers who struggle with the discussion of socially sensitive issues such as antisemitism, discrimination against Muslims and Holocaust denial.

### **Discrimination against Muslims**

The Government-wide efforts to tackle racism and discrimination also focus on fighting discrimination against Muslims in the labor market, the housing market and education, using the criminal law approach as well. By involving the chain as a whole, the Ministry of Social Affairs and Employment seeks to prevent discrimination based on origin, religion or color, including discrimination against Muslims. Studies have revealed that prejudice, stereotypes and the prevailing social standard are useful tools to predict racist and discriminatory behavior. The greater focus on tackling discrimination against Muslims was announced in the letter to Parliament of November 11, 2020 and has since been elaborated as follows:<sup>25</sup>

1. Preventive use of knowledge and instruments supporting local authorities and social professionals to specifically tackle discrimination against Muslims. The Inclusion & Community Platform makes a major contribution with its studies and publications about effective ways to reduce discrimination, which includes eliminating prejudice. The Platform also actively communicates and implements antidiscrimination interventions among intervention developers and implementing organizations.
2. In early 2022, a grant from the Ministry of Justice and Security, the Ministry of Education, Culture and Science and the Ministry of Social Affairs and Employment was used to tackle specific discriminatory grounds, including discrimination against Muslims.
3. Encouraging the willingness to report discrimination against Muslims is key to combating and sanctioning discrimination and to identifying the extent of this discriminatory ground. The guideline ‘Increasing the willingness to report discrimination: a public design approach’ has been drafted with the aim of supporting municipal authorities and antidiscrimination agencies in collaborating with local parties and citizens to develop activities intended to encourage the willingness to report discrimination, including discrimination against Muslims. This guideline is based on lessons learnt from the pilot project ‘reporting discrimination against Muslims’ and has been transformed into a guideline that can be used to develop local activities intended to promote the willingness to report all discriminatory grounds
4. In order to increase the perspective for action on the subject of intersectionality – with a focus on the plurality of grounds for discrimination, as is the case for Muslim women – two lines of approach will be explored in more detail:
  - a. a pilot project of the Ministry of Social Affairs and Employment and the Ministry of Education, Culture and Science that aims to develop, execute and test a method teaching policy officials of the Ministry of Education, Culture and Science who have various topics in their portfolios that impact the efforts to tackle discrimination and racism to let intersectionality guide their thoughts and actions. If proven effective, the method will be applied more widely; and
  - b. how a more intersectional way of linking data may help obtain a more complete picture of equal participation in society and a more balanced portrayal of groups with a migration background. These lines of approach will be used for a more detailed analysis of the results of the Intersectionality Knowledge Tables, which were focused specifically on the grounds of discrimination against Muslims and anti-Black racism.
5. Inclusive communication by the national government, starting with the Ministry of Social Affairs and Employment. To that end, the following factors will be explored:

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25. Various action items from the Manifesto against Islamophobia are included, such as intersectionality, a willingness to report discrimination, inclusive communication and hate speech..



- a. public perception of the new migration categories introduced by Statistics Netherlands, with a focus on reviewing the inclusive terminology used for people with a migration background.
  - b. a series of meetings between the Social Stability Expertise Unit and Islamic organizations to jointly identify the lessons to be learnt by the Ministry of Social Affairs and Employment;
6. Tackling hate speech is essential for preventing stigmatization, exclusion and discrimination resulting from expressions of hatred against Muslims. The fight against hate speech will be explored in line with the European Commission's proposal to give priority to expressions of hatred and hate crimes and, to that end, add them to the list of EU crimes stated in Article 83(1) TFEU.

The Government remains responsible for maintaining links and for engaging with the Muslim community based on trust, and we will continue to invest in this. Actions initiated by municipal authorities based on mistrust, such as covert operations in mosques conducted in the past, have caused much unrest and are undesirable.

### **LGBTIQ+ persons**

Underpinning this Government's LGBTIQ+ policy as indicated in the coalition agreement, the 'rainbow electoral agreement' will be carefully carried out through legislation, private members' bills and policies. Acting as the coordinating Minister of Emancipation, the Minister of Education, Culture and Science will seek to collaborate with fellow members of government with the aim of implementing all action items from the agreement in the shortest possible term. In addition to the implementation of the rainbow electoral agreement, additional LGBTIQ+ policies are also being developed, such as the BI+ policy, LGBTIQ+-inclusive sports and, at a local level, rainbow municipalities. Several alliances are also supported, including Shared Pride, Shared Luck (*Gedeelde Trots, Gedeeld Geluk*) of COC, TNN and NNID.

In schools, teaching pupils to treat sexuality with respect in society is part of the mandatory learning standard component 'sexuality and sexual diversity'. The Ministry of Education, Culture and Science aims to promote acceptance and social safety of LGBTIQ+ pupils and schools are offered extensive support to help them comply with their statutory obligation to ensure a safe school climate.

The national government is already working on the elimination of unnecessary gender registration, and the Government intends to cease stating people's gender on identity cards with effect from 2024/2025.

### **Gender**

The emancipation policy pursued in the past few years focused on increasing women's economic and financial independence, as this contributes to their financial resilience and self-reliance and gives them the freedom to make their own choices in life. The situation that the position of women in the labor market is less favorable than the position of men has major consequences both for the women themselves and for society as a whole, as labor potential and talent go to waste. It should be noted that the Government sets great store by working towards gender equality in the labor market. The coalition agreement also contains several measures to achieve this. The Government encourages labor participation, working more hours or days every week, and proportionate representation of women in management positions. In this regard, the Ministry of Social Affairs and Employment aims to facilitate the work/care combination and to promote a more equal division of care responsibilities between men and women through leave arrangements and childcare. Making it financially more attractive to work more hours is another relevant measure, which is to be achieved through tax policy, system reforms and childcare allowance.

This measure also helps reduce the gender pay gap, as it is correlated with the unequal position of women in the labor market. The Ministry of Social Affairs and Employment and the Ministry of Education, Culture and Science seek to eliminate wage differentials between men and women, for example by improved monitoring of wage differentials. Wage transparency is of the essence here.

Identifying wage differentials may help raise awareness among companies, organizations and employees. The proposal for the EU Pay Transparency Directive will in any event be followed for this purpose, as the Netherlands accepted the General Approach to the proposal on December 6, 2021. Once the Directive has been adopted, it must be implemented in the Netherlands within a few years' time. Measures aimed at achieving pay transparency require employers to be more transparent about how they determine wages. The proposal includes an obligation for large companies to annually report on a variety of data on the gender pay gap and equal pay, as well as several measures aimed at improving the legal protection of employees.

The Ministry of Social Affairs and Employment and the Ministry of Education, Culture and Science have also pooled resources in tackling pregnancy discrimination, for example by improving the provision of information and communication about the rights of employees, employers and other stakeholders when an employee is pregnant and by raising awareness of this issue.

The emancipation policy of the Ministry of Education, Culture and Science also extensively discusses how to tackle 'gender-related violence'. This is a collective term that covers various types of violence that are fully or partly driven by an unequal balance of power between men and women and harmful stereotypical views of masculinity and femininity, resulting in domestic violence, femicide, sexual violence, sexual harassment, transgressive behavior and online violence.

That is why the emancipation policy of the Ministry of Education, Culture and Science addresses the termination of gender stereotypes and the promotion of gender equality as well as specific measures intended to reduce gender-related violence and improve social safety, with an emphasis on prevention and awareness. The Ministry cooperates closely with the Ministry of Health, Welfare and Sport, the Ministry of Justice and Security and the Ministry of Social Affairs and Employment in tackling gender-related violence. In doing so, it also implements the recommendations of GREVIO, the expert body that supervises the implementation of the Istanbul Convention.

Seeking to enhance gender-sensitive care, the Ministry of Education, Culture and Science focuses on respectful treatment and awareness and thereby supports the Tailored Healthcare Alliance (*Alliantie Gezondheidszorg op Maat*). The Netherlands Organization for Health Research and Development (*ZonMw*) carries out the gender and health remit, working on sustained consideration and integration of sex and gender in healthcare and care research programs.

Aiming to prevent male and female stereotypes in education, the Ministry supports the Work and the Future (*Werk.en.de.toekomst*) alliance. This alliance was set up to counteract stereotypes in education, the labor market and the government and will be terminated at the end of 2022.

As the Government aims to achieve gender diversity among senior employees in the private, public and semi-public sectors, on

January 1, 2022 an ingrowth quota was introduced to improve the male/female ratio at the top of the business community. Large companies must also define targets and are required to report on gender diversity at the top of their organizations. The Ministries and their implementing organizations will aim to have 45 to 55 percent women at the top or in senior management within five years' time. The Government has also set itself a target of 50 percent women at the top for appointments in autonomous administrative authorities and on advisory boards. Calling on the entire public and semi-public sectors to work towards 50 percent women at the top or in senior management positions, the Government will introduce a statutory obligation to define a target for top executives and senior management at other organizations within the public and semi-public sectors.

**45% → 55%** women expected to be at the top or in senior management of ministries and their implementing organizations within five years.

In the autumn of 2022, the Minister of Education, Culture and Science will send the Emancipation Memorandum to Parliament, which sets out the prospective policy on gender equality and LGBTIQ+ equality to be pursued while the Government is in office.



Education is key to promoting a respectful society and counteracting racism and discrimination.



## 2.4 Current policy and policy reinforcements – Domains

### Education

Drafted in late 2020, the policy agenda for tackling segregation in education covers several ways in which the Ministry of Education, Culture and Science seeks to eliminate segregation in education in collaboration with municipal authorities and school boards.

A coalition of school boards, municipal authorities and other parties has been formed, which is already working on tackling segregation. Municipal authorities will also be given the opportunity to expand the Equal Opportunities Agenda – arrangements made between municipal authorities and the Equal Opportunities Alliance (*Gelijke Kansen Alliantie*) – with segregation measures. The website of the Equal Opportunities Alliance and the Coeducational Schools Knowledge Center (*Kenniscentrum Gemengde Scholen*) lists numerous good practices that municipal authorities and school boards can follow. Additional funds are also available for broad-based combined schools and heterogeneous classes in the first year of secondary school.

In the period 2017-2021, senior secondary vocational education (*mbo*) included the Citizenship Agenda in the curriculum, containing arrangements between vocational schools and the Ministry of Education, Culture and Science on strengthening civic education. The evaluation of the Agenda has shown that it had little impact on

improving quality across the board. All too often, the quality of civic education in senior secondary vocational education is below par. For example, several studies have revealed major educational differences between and within schools, with education being largely dependent on passionate teachers. In collaboration with the field, various policy intentions are currently being worked out to strengthen civic education in senior secondary vocational education. These intentions pertain to reviewing the civics qualification requirements and stepping up efforts to make teachers more professional. The Minister of Education, Culture and Science will provide Parliament with the details shortly.

In the next few years, ‘equal opportunities’ will also have priority in senior secondary vocational education. Together with the field, arrangements will be made about measures intended to increase equal opportunities, which will be laid down in the Senior Secondary Vocational Education Work Agenda. These measures will also be aimed at tackling discrimination and racism. Vocational schools must secure a safe and inclusive learning environment where students and staff feel free to be themselves, where students are able to successfully complete their training and where teachers can do their job.

As civic education is not up to par in primary and secondary education either, a tightened civic education directive entered into force on August 1, 2021. This amendment to statutory provisions covering civic education in primary, secondary and special education ensures that civic education becomes ‘more mandatory’ in nature.



The statutory directive calls on schools to promote active citizenship and social cohesion, in any event by paying attention to the promotion of knowledge of and respect for the basic values of a democratic state under the rule of law and the development of social and civic competencies. These measures should enable pupils to contribute to and participate in our multiform and inclusive democratic society.

A duty of care for schools has also been introduced: schools must create a school culture that observes the basic values of a democratic society, which are freedom, equality and solidarity.

Primary schools advising pupils on the choice of secondary school and undervaluation in this regard are points of concern throughout the education sector. This is why even the study programs address these issues; primary education teacher-training colleges place a great focus on inclusion, awareness about testing and preventing prejudice in general. The next review of the knowledge base will also specifically consider undervaluation as a theme. The Ministry of Education, Culture and Science also supports teachers and schools in arriving at recommendations for pupils that are as objective and appropriate as possible. It has drawn up a guideline for this purpose, which will be updated this year.

Undervaluation is harmful and should be tackled at all levels of education. As it is not limited to the transition from primary to secondary education, undervaluation is highlighted and discussed in all teacher training courses.

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<sup>26</sup>. "MBO-studenten Utrecht hebben te maken met stagediscriminatie" - Verwey-Jonker Instituut.

The Ministry of Education, Culture and Science also values cultural education in all sectors of education. Cultural education contributes to the broad development of students as individuals and as part of a group, partly because it contributes to the appreciation of diversity. Enriching education with the power of art and culture is of paramount importance, as this involves such matters as critical thinking, being able to see the diversity in yourself and society, and knowing how you can make your voice heard in this society. Funds from the Ministry of Education, Culture and Science are used to issue culture cards to make a budget available for all students in senior secondary vocational education through 2024, and a Culture Education grant scheme has been developed for senior secondary vocational education, which also runs through 2024.

### **Internship discrimination**

Internship discrimination is a persistent problem that greatly impacts young people, education and society. For many young people, internships are their first introduction to the labor market and an opportunity to gain knowledge and experience. Unfortunately, there are indications that students also experience exclusion and discrimination when trying to find internships, which has emerged from studies as well. Internship discrimination displays dynamics similar to labor market discrimination. A study conducted in the municipality of Utrecht has revealed that students in senior secondary vocational education who have a name that may suggest a migration background are less likely to find an internship than other students with nearly identical CVs.<sup>26</sup> Students with a non-Western background

are also forced to apply for internships significantly more often than students in similar circumstances who do not have a migration background.<sup>27</sup> The same issue arises when it comes to gender identity, sexual identity or a physical or mental disability. There seems to be a trend among employers to prefer ‘standard employees’, which reinforces inequality of opportunity even more.<sup>28</sup>

With the aim of promoting equal opportunities in finding internships and tackling internship discrimination, in 2018 an administrative work agenda was prepared in collaboration with the Ministry of Social Affairs and Employment, MBO Raad, JOB, the Foundation for Cooperation on Vocational Education, Training and the Labor Market (SBB), the Confederation of Netherlands Industry and Employers (VNO-NCW), the Royal Association MKB-Nederland and the Netherlands Institute for Human Rights. The School & Safety Foundation joined later. A collaboration is currently ongoing with students, schools and work placement companies to review the approach to tackling internship discrimination. They consider new knowledge and views while acknowledging and recognizing the existence of discrimination, improving support for students who experience internship discrimination, providing tools to help schools and work placement companies to prevent discrimination and disseminating information on how to facilitate the reporting of discrimination. This autumn, the Ministry of Education, Culture and Science will present a plan to tackle discrimination in senior secondary vocational education as part of the Internship Pact.

By signing a manifesto to tackle internship discrimination on July 13, 2022 and introducing a common long-term working program, universities of applied sciences, research universities, the Ministry of Education, Culture and Science, the Ministry of Social Affairs and Employment, student organizations and employers stress their joint responsibility for tackling internship discrimination and their individual duty to help resolve this complex issue each in their own way.

The Bill on Monitoring Equal Opportunities in Recruitment and Selection will require employers to have a policy in place for combating discrimination and encouraging equal opportunities in recruitment and selection. This obligation will also apply to the recruitment and selection of interns.

Educational institutions should take more control and help students find internships. Although there is still much room for improvement in senior secondary vocational education, educational institutions in higher professional education (hbo) and university education in particular leave students to fend for themselves. Educational institutions should become involved in ‘matchmaking’, with students actively being linked to internship placements and with application interviews by students being increasingly replaced with introduction interviews. Students are of course at liberty to find their own placement, but educational institutions should take more responsibility in the process.

27. ROA Factsheet.

28. De Jong et al., 2021.

29. <https://www.rijksoverheid.nl/actueel/nieuws/2022/07/13/manifest-ondertekend-om-stagediscriminatie-tegen-te-gaan>.

### Labor market

The Government is firmly committed to tackling labor market discrimination by means of a comprehensive approach described in the 2018-2021 Labor Market Discrimination Action Plan, which was founded on three pillars: knowledge & awareness, research & instruments, and monitoring & enforcement. The Minister of Social Affairs and Employment sent the new 2022-2025 Labor Market Discrimination Action Plan to Parliament on July 14.<sup>30</sup>

Awareness will be a permanent point of focus, and effective interventions will be explored to help companies increase equal opportunities for job applicants. The Ministry pooled resources with 21 national organizations of the Work & Integration Task Force to draft the Work Agenda on Further Integration in the Labor Market with the aim of helping as many employers, schools and municipal authorities as possible to set to work on effective interventions that create equal opportunities in the labor market for people with a migration background. This Work Agenda includes a theme 'more cultural diversity at work' that addresses the preparation of a menu of effective interventions, opening the Diversity at Work helpdesk to all employers who seek to create equal opportunities in recruitment and selection, and providing more practical support to employers in communities of practice.

The Ministry of Social Affairs and Employment intends to validate the knowledge and views collected to the maximum extent possible and then build on them. The new plan also includes a few major new



30. *Parliamentary Documents II 2021-2022*  
29 544/30 950 no. 1119.

points of focus. For instance, the Minister increasingly seeks to encourage the masses to act. This will require even closer collaboration with various stakeholders, including the employers' organizations. The new action plan will focus not only on access to the labor market, but also on equal opportunities in the workplace.

The action items break down into the following clusters:

- A.** More knowledge among employers and employees of rights and obligations and how to exercise them or comply with them (awareness/providing information). This includes timely communication about obligations ensuing from laws and regulations and the tools available to both employers and current or potential employees.
- B.** Supporting employers and offering a perspective for action when applying effective instruments intended to promote equal opportunities. Guidelines for employers are being drafted partly on the basis of several studies and pilot projects carried out under the previous Action Plan. Another example is the Equal Opportunities e-learning course for SMEs in particular, which raises awareness of effective instruments. The support provided by Diversity at Work (and the Diversity Charter) is also continued.
- C.** Increased/more effective discrimination legislation and compliance. Legislation is used to encourage equal opportunities, thereby raising awareness and also setting the standard. The Bill on Monitoring Equal Opportunities in Recruitment and Selection,

for instance, has been offered to Parliament and includes a reporting obligation for intermediaries.

- D.** Monitoring, evaluation, increasing knowledge and expertise (including in terms of trends). National trends are monitored, activities are evaluated where possible, and stakeholders regularly exchange views to keep track of the issue in general.

The Minister of Social Affairs and Employment discusses the details of the aforementioned clusters and activities in the Labor Market Discrimination Action Plan as recently presented.

### **Procurement by the national government**

The coalition agreement states that organizations that have been found guilty of discrimination may be excluded from contract awards by the national government. Options should also be explored for using tender procedures to increasingly do business with companies that have committed to the national government's diversity and inclusion goals and antidiscrimination policy. This should include an examination of whether a quality label can be introduced to assess the degree of social entrepreneurship in respect of non-discrimination, diversity and inclusivity.

Current regulations stipulate that award criteria and performance conditions related to antidiscrimination, diversity and inclusion may be set if they meet the simple requirement of being sufficiently connected with the "subject matter of the contract". In practice, 'being sufficiently connected with' proves to be open to interpreta-



A man and a woman are seated at a table in what appears to be a restaurant or cafe. The man, on the right, is wearing a white button-down shirt and is looking down at a black smartphone he is holding with both hands. The woman, on the left, has long dark hair and is wearing a grey sweater; she is also looking down at a smartphone. The background is softly blurred, showing other patrons and the interior of the establishment. A yellow rectangular graphic element is positioned to the left of the text.

A broader approach is needed to improve the recruitment, promotion and retention of diverse, i.e. ethnic, talent within the national government.



tion and these criteria could be used more frequently than is currently the case – in every situation where personnel is hired, for instance, and for other staff-related services. Currently, these criteria are set in a limited number of cases only.

The national government is carrying out the government-wide roll-out of the safeguards for diversity and inclusion in socially responsible procurement policy, with policy on diversity and inclusion among suppliers being one of the priorities. In European tender procedures, diversity and inclusion will be included in the national government's basic documents. Studies are currently underway to find out how diversity and inclusion can be incorporated into the schedule of requirements for purchases with a value of less than 150,000 euros. The options the Public Procurement Act offers will obviously be thoroughly considered before implementing the above. The Ministry of Education, Culture and Science is presently developing a European standard on diversity and inclusion within organizations.

### **The national government as an employer**

The national government seeks to achieve a diverse composition of its staff and an inclusive organization. Within the national government, people feel a need for diversity of views, as different perspectives, backgrounds and opinions may enhance the national government's brainpower.

Diversity and inclusion is one of the key objectives in the 2025 Strategic Personnel Policy. "The national government as an inclusive organization: aiming for an inclusive government organization with diverse teams and more diversity in higher pay scales in particular. The reasons for this include population ageing, a changing labor market, changes in society and increasing complexity of social issues."

Although the 2021 Annual Report – National Government Operations<sup>31</sup> reveals slight yet steady growth in the proportion of employees with a non-Western migration background among the total number of staff, the targets agreed are not always reached. The proportion of national government employees with a non-Western migration background in the highest pay scales is a consistent point of concern, as growth is lagging. In pay scales 14-16, the percentage rose slightly to 3.6 percent non-Western employees, an increase of 0.3 percentage points compared with 2020. In pay scales 17+, the proportion of national government employees with a non-Western migration background was up 1.2 percentage points on 2020 (from 0.7 to 1.9 percent).

The diversity and inclusion policy pursued throughout the national government includes specific jobs agreement targets. For 2022, there is a focus on additional measures to recruit more employees by bringing forward the previously announced central funding structures in Ministries and stepping up efforts to achieve social return.<sup>32</sup>

31. jaarrapportage-bedrijfsvoering-rijk-2021.pdf (p.21).

The diversity and inclusion policy pursued throughout the national government includes specific jobs agreement targets. For 2022, there is a focus on additional measures to recruit more employees by bringing forward the previously announced central funding structures in Ministries and stepping up efforts to achieve social return.

The national government has not met its jobs agreement targets. Each department operates its own policy for implementing the jobs agreement. There are indications that the main focus is on intake, with little consideration for retention and promotion opportunities. Employees subject to the jobs agreement often experience being in a lower pay scale in the job classification system than colleagues responsible for comparable tasks who are not covered by the jobs agreement. Their experience is that it is difficult to advance to jobs in a higher pay scale.

The national government has not met its own targets pertaining to the number of employees with a non-Western background in higher pay scales, either. In order to solve this issue, a broader approach will have to be organized with the aim of improving the recruitment, promotion and retention of diverse, i.e. ethnic, talent. For instance, greater focus will have to be placed on the creation of talent development programs for the advancement of talented individuals (including those with a non-Western migration background) to higher pay scales within national government employment.

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32. As the 2021 Annual Report still applies the old definition given by Statistics Netherlands ('population with a Western or non-Western migration background'), it is also applied here. For more information about the new definition, see: New classification of population by origin (cbs.nl).

It is vital that potential candidates with a non-Western migration background at least be more clearly recognized. This calls for a culture change that starts at the top and includes such matters as a different composition of selection committees, periodic assessments to determine why the advancement of employees with a non-Western background stagnates, and exit interviews for all persons leaving the organization earlier than expected.

The NCDR believes that the introduction of the 'Rooney rule' for positions in higher pay scales can bring benefits: for every vacant position, at least one candidate with a non-Western migration background should be invited. He calls upon the national government to experiment with potentially effective measures. As the Senior Civil Service (*Algemene Bestuursdienst*; ABD) expects that introducing this measure for ABD positions will take some time, in the period ahead the ABD will step up its efforts to increase the number of candidates and the intake of more diverse talent. Candidates with a non-Western migration background will, for example, at least be invited to (initial) interviews. A search team also actively scouts candidates with a non-Western background, and additional efforts are being made to encourage these candidates to participate in the ABD's talent programs. The search for suitable candidates has also been actively extended beyond the limits of the national government. Experiments with other measures will also be started to increase the number of appointments of candidates with a non-Western migration background.

The national government will set to work on an extensive set of measures for all of the civil service to ensure that all job applicants are equally likely to be hired. These measures may include:

- inclusive labor market communication and job advertisements (including a diversity statement in every advertisement);
- a more active search for candidates with diverse backgrounds who would like to work for the national government;
- diverse selection committees;
- guaranteeing better compliance with the arrangement in the 2025 Strategic Personnel Policy that members of selection committees must have completed the inclusive recruitment and selection training course;
- criterion-based selection interviews;
- conducting pilot projects to experiment with innovative ways of recruitment and selection, including open hiring;
- it is agreed in the coalition agreement that the government will invite candidates to submit anonymous applications. In consultation with other Ministries, the Ministry of the Interior and Kingdom Relations will implement this measure within the civil service in the period ahead and will also involve experiences already gained in the process.

In addition to quantitative diversity targets, the national government also sets great store by an inclusive organizational culture. The status on this issue will be examined in the years to come by means of a government-wide inclusion monitor to be developed. An inclusive

organizational culture means that all employees are actively involved and accepted in the group. It means that they can be themselves, that they feel free to express their opinions, that they feel appreciated and respected, and that they are able to educate themselves in a safe learning environment. In short, an organizational culture where exclusion, discrimination, bullying and harassment are not tolerated.

Being the employer, the national government must lead by example. That is why a project has been initiated under the name 'The Government for Everyone', which aims to strengthen efforts to prevent and fight discrimination and racism throughout the government. The letter to Parliament of June 27, 2022 on social safety, safe working practices and a resilience scan within the national government discusses these efforts.<sup>33</sup>

Discrimination and racism within the national government is a serious problem that requires additional time and resources. A recent study has shown that about 9 percent of employees working for the national government experienced that they were discriminated against in the past year, and 15 percent of employees indicated that they had witnessed discrimination in their working environment. These are worrying figures that emphasize the need for additional and lasting efforts. It is important that the national government sets an example, given that prejudice, discrimination and racism in respect of civil servants also carry over into society.

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<sup>33</sup>. *Parliamentary Documents II*, 2021-22, 31490, nr. 417.

Efforts to tackle discrimination and racism within the national government – called ‘The Government for Everyone’ – focus on:

- plainly and clearly communicating the standards;
- raising awareness of prejudice;
- increasing resilience and alertness to discrimination and racism;
- increasing the perspective for action;
- giving more publicity to options for receiving help, making a report or submitting a complaint;
- adequately addressing indications and reports of discrimination and racism.

‘The Government for Everyone’ applies a wide range of instruments, such as bystander training, expert meetings, a theater show about everyday racism and a toolkit for managers. The efforts are differentiated to various target audiences, such as managers, bystanders, confidants and front-office employees.

#### **The police as an employer**

The police has an intake target for 2025 of having 35 percent of new intake in the four police units of the Randstad conurbation consist of employees with a migration background. A target will also be defined for the other units, and studies are being conducted to identify factors that may help counteract an undesired outflow of employees. The police is also working on the implementation of the jobs agreement for disabled workers.



Safe and inclusive teams are another point of focus. Efforts are being made to secure a safe working environment in the teams, which includes appropriate ways to handle discriminatory behavior in the workplace and a continuing dialogue in the teams on safety and inclusivity. A number of instruments are being developed to support this dialogue, with specific attention being paid to leadership and managers' duty of care.

### Healthcare

On January 13, 2022, the Ministry of Health, Welfare and Sport held round-table discussions with parties in the field, experts and experts by experience to gain the expertise needed to tackle discrimination and racism in healthcare. The results and the possible follow-up will be considered in the Ministry-wide approach.

The Ministry of Health, Welfare and Sport also funds the Dutch Center of Expertise on Health Disparities (Pharos), which contributes to reducing major health disparities by sharing knowledge through studies, training and guidelines and by organizing meetings. In 2021, Pharos used an institution grant from the Ministry to start building up a knowledge file on discrimination in healthcare with the aim of placing the issue on the agenda for a number of years and providing a solid knowledge base to both policy professionals and healthcare professionals.

### Sports

In the sports domain, discrimination and racism are tackled in several ways. Diversity policy is an agenda item for the sports associations. Policy attention focuses not only on expanding possibilities for participation in sports, but also on more equal representation of different groups in society.

Diversity is one of the factors included in the revised Good Sports Governance Code, which sets minimum quality requirements for sports associations in the area of diversity and other areas through the male/female ratio and age, for example. NOC\*NSF has launched a Diversity Charter that allows sports associations to demonstrate their active work on this issue and that they can use to actively prepare policies. Ten parties also joined forces in the Sports and Movement for Everyone (*Sport en bewegen voor iedereen*) alliance to involve vulnerable groups in sports. These groups are elderly people, people with a disability, people living in poverty or in another vulnerable situation, and people with another cultural or sexual background.

The program 'Our soccer belongs to everyone' – a joint initiative of the Ministry of Health, Welfare and Sport, the Ministry of Social Affairs and Employment, the Ministry of Justice and Security and Royal Dutch Soccer Association KNVB – is aimed at effectively tackling discrimination and racism in soccer. In principle, the current plan is valid until the end of 2022, but its term of validity may be extended. The conclusion in the first two progress reports was that



In the sports domain,  
discrimination and racism  
are tackled in several ways.



– despite the restrictive COVID-19 measures – the measures were being implemented expeditiously. Having said that, this does not mean that tackling racism and discrimination in soccer is a thing of the past. These issues are not eliminated without efforts; instead, they require a culture change. The efforts are threefold: (1) prevention, (2) identification, and (3) sanctioning. The ‘Our soccer belongs to everyone’ program has identified four measures for the Prevention pillar, which are aimed at raising awareness among current and future players, managers, trainers, officials and supporters:

- A public information campaign dubbed #OneLove to reach all soccer fans with the message of inclusion and bonding;
- Training programs for clubs aimed at increasing awareness. Clubs are also supported in setting standards and ensuring that limits are not overstepped (with an emphasis on managers, trainers and officials);
- Education for officials and employees dealing with disciplinary matters, comprising refresher courses for referees on recognizing and dealing with racism and discrimination;
- The Anne Frank House carries out two educational projects: Fair Play and the Soccer Chanting Project. The Fair Play project is a game as well as a workshop and is aimed at raising awareness among young people of the different forms of discrimination and the role they have to play in this on and around the soccer field. The Soccer Chanting Project seeks to raise awareness of the hurtful effect of soccer chants.

### **Online discrimination**

In response to the Van Dijk motion, which calls on the government to identify ways to intensify efforts to tackle racism and antisemitism, the Ministry of Justice and Security collaborates with the Ministry of the Interior and Kingdom Relations, the Ministry of Education, Culture and Science and the Ministry of Social Affairs and Employment in the identification process. This is a first step towards a plan to tackle online hate speech, which is to reinforce the fight against online hate speech. The plan is expected to be underpinned by the following pillars: awareness, prevention, capacity building, law enforcement, and laws and regulations. The Minister of Justice and Security will send the online hate speech action plan to Parliament before the end of the year.

Prejudice, stereotypes and the prevailing social standard are important tools to predict discriminatory behavior. Studies of online discrimination are used to explore ways to raise awareness of online discrimination and social standards, for example by encouraging bystanders to act. This year the Inclusion & Community Platform, supported by the Ministry of Social Affairs and Employment, is conducting a study aimed at recognizing online discrimination and identifying good practices for preventing and tackling online discrimination.

The 2021-2025 coalition agreement states that large online platforms will be responsible for combating disinformation and hate speech on their platforms. This is fully in line with international developments in this area:

- When the Netherlands held the presidency of the Council of the European Union in 2016, the European Commission presented a Code of Conduct that it had prepared together with Facebook, Microsoft, Twitter and Google/YouTube to combat online hate speech. The Code of Conduct is a significant instrument for fighting online hate speech. The main best-efforts obligation is handling and, where necessary, deleting expressions of hatred within 24 hours after reports from users. The Code of Conduct also contains arrangements on monitoring compliance with the arrangements. In later years, Instagram, Snapchat, TikTok and other parties joined the Code of Conduct.
- The Council of Europe's Committee of Experts on Combating Hate Speech has prepared a new recommendation for addressing hate speech, showing that the Netherlands as an EU Member State is subject to a positive obligation to safeguard the exercise of fundamental freedoms and prevent human rights violations. It also states that every Member State has an important role to play in the fight against hate speech and ensuring a safe environment for public debate.
- The purpose of the recently adopted Digital Services Act (DSA) is to regulate the role that platforms play in counteracting illegal content and, to that end, it contains further rules on having illegal content removed.

### **The media**

The media face the challenge of combating the one-sided and/or stereotypical portrayal of different groups in terms of gender, gender identity, sexual orientation, cultural background, age and disability. As the subject touches on the constitutional editorial freedom of the media, the government's mandate to intervene in the media or in media content is limited.

The statutory remit of umbrella administrative body NPO that is responsible for the public broadcasting system must be maintained in the years to come. This means that it provides a multiform offering, thereby helping to represent all of society.

In the years ahead, the specific further arrangements in the performance agreement concluded with NPO will also be maintained when it comes to the obligation to report on diversity.

With effect from 2023, NPO will phrase more specific quantitative and qualitative goals on the issue, which it will actively attempt to reach.

In the months ahead, the NCDR will speak with various media companies about the options the media sector itself has for arriving at measures that may promote diversity in the portrayal of different groups without direct government intervention.


**Culture**

As the offer within the media and culture sectors is still insufficiently representative and does not contain enough perspectives, the media and culture sectors are charged with the task of eliminating this unequal portrayal.

Cultural objects may have been stolen, bought or received in the colonial context, but they have always been acquired on the basis of an unjustified position of power. As a result, calls for the return of stolen art objects to the countries of origin are becoming louder internationally as well as in the Netherlands.

The Ministry of Education, Culture and Science encourages institutions to enhance safety and inclusion and to combat all forms of exclusion, and also supports them in doing so. The Ministry envisages a learning and working environment within the sectors under the Ministry's responsibility, including the culture sector, where this issue is tackled and where indications and reports to the contrary are adequately addressed. The culture sector initiated disclosure office Mores for the culture sector, allowing employees working in the sector to report undesirable behavior, including discrimination.



‘How wonderful it is that  
nobody need wait a single  
moment   
before starting to improve  
the world!’

 **Anne Frank**



# 3. Recognizing and reporting



## 3.1 Introduction

Discrimination is a many-headed monster that is found in all areas of society: in healthcare, education, the labor market and the housing market, in the streets and in the hospitality sector. It also occurs on a wide variety of grounds, such as on the basis of ethnic background, gender, political and religious conviction, sexual orientation and gender identity, disability and age. As a result, it is of the utmost importance that we analyze what forms discrimination takes exactly and which citizens suffer from it and when. Having identified the problem, we must also examine what approach is effective.

Learning to recognize discrimination and racism is of the essence if we are to prevent, monitor, report and punish it. A large number of studies of discrimination and racism are being conducted in the Netherlands to discover what it is and how we should tackle it. These studies may also contribute to a responsible choice of policy objectives and may suggest pros and cons of the various routes available to achieve these objectives. The right information and frameworks may also support an evaluation of the implementation of interdepartmental policy, which information may be drawn from national studies (by Statistics Netherlands and the Netherlands Institute for Social Research, for example) or international studies (by the OECD, UN or EU, for example).

Keeping track of the extent of perceived discrimination and the willingness to report it is another important precondition. The

Netherlands Institute for Social Research has surveyed perceived discrimination twice, and Statistics Netherlands has recently surveyed perceived discrimination as part of the Safety Monitor. Both surveys also addressed the willingness to report discrimination. The Inclusion & Community Platform prepares publications on mechanisms that effectively tackle discrimination and annually publishes a report containing figures and an explanation of the instances of discrimination reported.

Knowing precisely how discrimination becomes apparent is essential, as this is not always obvious. A 2015 survey conducted by the Netherlands Institute for Social Research, for example, showed that the attitude towards homosexuality in the Netherlands was expressed in a surprising way: heterosexuals turned out to approve of same-sex marriages, but seeing affection shown out in the open did in fact bother them.

Another survey reveals that whereas 27 percent of all Dutch people experience discrimination, this figure is 55 percent among Muslims.<sup>34</sup> Many of the complaints submitted to antidiscrimination agencies are rooted in religion, including discrimination against Muslims. This means that, regrettably, discrimination is an everyday experience for many Muslims in the Netherlands, which greatly impacts their lives.

Studies conducted in the labor market may also shed light on the precise effects of discrimination and racism. In the past decade, several studies demonstrated that job applicants with a non-Dutch

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<sup>34</sup>. *Ervaren discriminatie in Nederland II*, report by the Netherlands Institute for Social Research, March 2020.

last name were less likely to be invited to application interviews and that people with a Dutch name were 60 percent more likely to receive an invitation in the first selection round than people with a name suggesting an Arab background, despite their equally impressive CVs. It also turned out that people without a migration background and with a criminal record for a violent offense were still more likely to receive a positive response to a job application than people with a migration background who did not have a criminal record. Discrimination in the recruitment and selection of people with a Turkish or Moroccan background also proves to occur significantly more often in the Netherlands than it does in Spain or Germany, for example.<sup>35</sup>

In addition to discrimination based on origin, religion and color, we also see discrimination in the labor market based on age, gender and sexual orientation. Transgender people and people with a disability also face labor market discrimination.

A recent survey conducted by the Dutch Center of Expertise on Health Disparities (Pharos) demonstrated that discrimination and racism are found in healthcare, too.<sup>36</sup> People with a migration background do not always receive the same diagnosis or the most appropriate diagnosis and treatment, as opposed to people without a migration background. Some patients or clients should in fact receive different, specific care because of their ethnic background, but the predominantly Western-oriented healthcare sector often does not provide for this. This group of patients often experience a

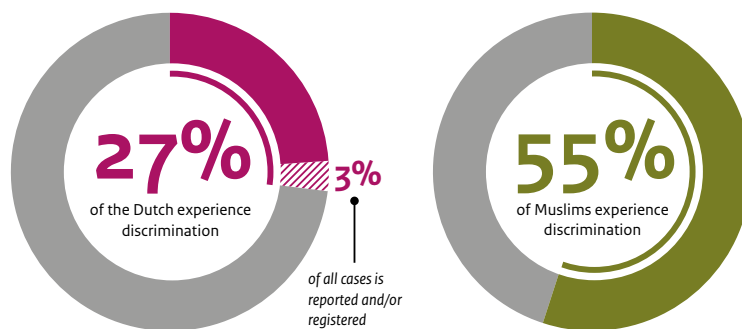
lower quality of healthcare and are less satisfied with treatments. As discrimination based on ethnic origin affects people's chances of good health, it contributes to greater health differences between groups of people with a migration background and those without a migration background. Studies have established a clear connection between the extent of perceived discrimination and various physical disorders; perceived discrimination increases the risk of cardiovascular diseases, high blood pressure, obesity, a less effective immune system and other conditions. A link was also found between perceived discrimination and adverse effects on mental health. These differences are also seen between genders, with healthcare professionals paying insufficient attention to specific female disorders, for instance.

As stated above, discrimination comes in many forms and knowledge is the key to recognizing and tackling it. Reports made about discrimination are another major indicator of the extent of discrimination and the possible ways in which it can be tackled. The information ensuing from a report is essential for determining the direction of the approach and targeted interventions. Concrete problems may also be brought up when making reports, and submitting a report is one way to assist and help people who experience discrimination. A study by the Netherlands Institute for Human Rights shows that most of the organizations where the Institute identifies discrimination follow up on the Institute's opinion by taking measures.

35. <https://www.kis.nl/artikel/vijf-feiten-over-discriminatie-werving-en-selectie>.

36. *Discriminatie en gezondheid, Over de invloed van discriminatie (in de zorg) op gezondheidsverschillen en wat we hieraan kunnen doen*, Dutch Center of Expertise on Health Disparities Pharos, 2022.

There is a yawning gap between the number of people who experience discrimination and the number of people who report it. As stated above, the last survey the Netherlands Institute for Social Research conducted of perceived discrimination reveals that 27 percent of Dutch people experience discrimination. The annual figures of the police, antidiscrimination agencies, the Center against Internet Discrimination (MiND), the Netherlands Institute for Human Rights and the National Ombudsman show that only 3 percent of all instances of perceived discrimination are reported or registered. In 2021 antidiscrimination agencies registered 6,922 reports of discrimination, an increase of 26 percent compared with 2020. The police registered 6,580 incidents of discrimination, an increase of 7 percent. The Institute received 739 requests for an opinion, an increase of 16 percent. MiND received 339 reports of online discrimination, less than half the number received the year before. The National Ombudsman received 321 complaints about discrimination by government agencies, more than twice the number of complaints



received the year before. The Children’s Ombudsman registered ten complaints related to discrimination, a decline by three compared with the previous year.

The widely shared desire to increase the willingness to report discrimination has priority for the Government, which included this objective in the coalition agreement. In the past few years, the Government launched initiatives to improve the willingness to report discrimination. As this requires an understanding of why people submit reports or why they decide not to do so, this issue was discussed in several town hall sessions. The pilot project ‘reporting discrimination against Muslims’ and other projects show that underlying causes raising the barrier to making a report are a lack of familiarity, low confidence in institutions, little information about the results of the reports and, in some cases, a language barrier.

This testifies to the importance of the visibility, findability and quality of the antidiscrimination agencies. Those making the reports also turn out to appreciate a reporting process that result in perspectives for action and possibly even redress.

The remainder of this chapter addresses current policy and policy interventions aimed at recognizing and reporting discrimination and racism.





Knowing precisely how discrimination becomes apparent is essential, as this is not always obvious.



## 3.2 Current policy and policy reinforcements – General

The Government seeks to increase knowledge about discrimination in several ways. Various studies have been conducted of perceived discrimination and the causes and factors triggering specific forms of discrimination. The Government also commissioned Movisie to develop new guidelines for municipal authorities in the areas of anti-Black racism, discrimination against Muslims, antisemitism and antiziganism, which were published on March 21, 2022. To monitor antiziganism, a Biennial Social Inclusion Monitor is being prepared and a National Roma Contact Point has been set up that prepares EU reports.

### **Antidiscrimination agencies**

The Government is working in concert with the antidiscrimination agencies and the Association of Netherlands Municipalities (*Vereniging Nederlandse Gemeenten*; VNG) to strengthen the position of the antidiscrimination agencies. The Ministry of the Interior and Kingdom Relations is currently testing whether the antidiscrimination agencies can be easily found in all municipalities. The initial results of the test show that many websites of municipal authorities contain limited information about the antidiscrimination agency and how people can submit a report.

In the period ahead, the antidiscrimination agencies will also be strengthened on the back of an investigation intended to find out

how the agencies are currently organized. The Government will give effect to the Belhaj motion, which asks the Government to explore whether the antidiscrimination agencies may be structured differently by following the example of the Legal Aid Desk. A 2017 study shows that the current structure creates a few bottlenecks, including the financing of the antidiscrimination agencies. They are overly dependent on municipal authorities, which are able to make their own financing choices. In some cases, this means that an antidiscrimination agency serving multiple municipalities is faced with different financing and service arrangements.

In 2022, the Government launched an investigation into the structure, tasks and financing of the antidiscrimination agencies. This covers the request stated in the Belhaj motion to also consider how the Legal Aid Desk is organized. The investigation should result in a concrete proposal that can be implemented, possibly by amending the Municipal Anti-discrimination Agencies Act.

Issues such as name recognition, knowledge, expertise and quality will also be considered in collaboration with the antidiscrimination agencies. In 2022, the antidiscrimination agencies will develop their own strategic agenda prominently featuring these items and will start discussions with their stakeholders about the implementation of the agenda. The Ministry of the Interior and Kingdom Relations will be an important partner in the process.

At present, not all antidiscrimination agencies are members of the sector association discriminatie.nl. The Ministry of the Interior and Kingdom Relations intends to explore options for strengthening the sector association so as to improve its role as an advocate for its members.

A study has revealed that only few people report their discrimination experiences to the antidiscrimination agencies; the rest of them fail to do so for various reasons. People who have been discriminated against indicate that they believe reporting is useless, which means that victims of discrimination are often in the dark about the added value of a report. The mechanisms underlying the low willingness to report also need to be examined if this willingness is to be increased. In the past period, these mechanisms were examined for the willingness to report discrimination against Muslims by means of the pilot project ‘reporting discrimination against Muslims’. The purpose of the project was to work together with local Muslim organizations, antidiscrimination agencies, municipal authorities and citizens to identify activities that they themselves can develop to encourage a higher willingness to report discrimination against Muslims.

The guideline ‘Increasing the willingness to report discrimination: a public design approach’ was subsequently drafted with the aim of supporting municipal authorities and antidiscrimination agencies in collaborating with local parties and citizens to develop activities intended to increase the willingness to report discrimination, including discrimination against Muslims. This guideline is based on

lessons learnt from the pilot project ‘reporting discrimination against Muslims’ and has been transformed into a guideline that can be used to develop local activities intended to promote the willingness to report all discriminatory grounds.

Movisie also started reviewing the reporting process on the instructions of the Ministry of the Interior and Kingdom Relations with the aim of arriving at a recommendation for structuring the reporting process in such a way that reports have clear added value for the victims of discrimination. The review is a first step in the implementation of the Van Baarle motion requesting an annual review of the willingness to report discrimination. Once the review is completed in late 2022, the Ministry of the Interior and Kingdom Relations plans to organize a national reporting event in concert with the antidiscrimination agencies. This event will be used to ask all those involved to work on solutions to the bottlenecks emerging from the review.

Together with the antidiscrimination agencies and other reporting bodies, the Ministry will organize the first national meeting for all reporting bodies and other bodies involved. During this event, which centers on reporting, the initial results of the study into the reporting process will be discussed and translated into a concrete plan of action that should help increase the willingness of individuals to report discrimination. The event is scheduled for late 2022 or early 2023.

One way to increase the visibility of the antidiscrimination agencies would be to introduce a single nationwide operating name. Lack of name recognition presently hampers their effectiveness. Many citizens have no idea what an 'antidiscrimination agency' is, partly because each regional organization has a different name. This also makes it more complex to organize national press campaigns. The number of reports of discrimination is expected to rise if and when the antidiscrimination agencies operate under a single name. A dialogue will be initiated with the agencies to ensure the introduction of a single name in 2023.

We will also start a major campaign for the general public to increase the willingness of individual citizens to report discrimination.

### **The police**

Seeking to increase the willingness of victims of discriminatory violence to submit reports, the police focuses on supporting victims in making reports and on enhancing knowledge and expertise. Subject-matter experts and discrimination investigators of the Center of Expertise on Tackling Discrimination of the police will build up and share expertise on the follow-up of reports of discrimination across the board. This national knowledge and information role will help the Center of Expertise to improve the ability of police units and their partners in the chain to recognize, address and handle discrimination issues.

The police also engages the Diverse Skills Network (*Netwerk Divers Vakmanschap*; NDV), which includes the Pink in Blue (*Roze in Blauw*; an LGBTIQ+ organization within the police) network. NDV comprises police officers who are willing to share their own experiences with colleagues within the police if this can help the colleagues deal with citizens and discrimination issues. They are permitted to use their regular working hours for these activities. It is assumed that improved recognition and handling of discrimination incidents will also boost the willingness to report them, as victims will increasingly trust the police and the Public Prosecution Service to properly handle the report.

Antidiscrimination agency RADAR has also received a grant from the Ministry of Justice and Security to launch a project in which it collaborates with the police, the Public Prosecution Service, other antidiscrimination agencies and other parties in considering how the process of criminal prosecution for discrimination may be facilitated more effectively. These parties will also explore meaningful alternatives in case criminal law is not the most obvious or not the most effective intervention. The precise details of the project will be worked out in the period ahead.

### 3.3 Current policy and policy reinforcements – Discriminatory grounds

#### LGBTIQ+ persons

A study is currently ongoing to determine the number of instances of genital surgery in children with Differences of Sex Development (DSD)/intersex children in the Netherlands. The results are expected at the end of December 2022. The Ministry of Health, Welfare and Sport has also provided a grant to draft a multidisciplinary DSD quality standard in the Netherlands, with patients being involved in addition to care providers. The quality standard will provide a definition of high-quality care for intersex people, covering both care for children and care for adults. The Knowledge Institute of the Federation of Medical Specialists (Kennisinstituut van de Federatie Medisch Specialisten) supports the study, which also receives input from patients' associations.

#### Gender

As outlined in the previous chapter, the Ministry of Social Affairs and Employment and the Ministry of Education, Culture and Science have pooled resources in tackling pregnancy discrimination, for example by improving the provision of information and communication about the rights of employees, employers and other stakeholders when an employee is pregnant and by raising awareness of this issue. By doing so, they also specifically address ways in which organizations can start discussions on this topic.

The elimination of wage differentials is also based on recognizing, bringing up and reporting actual or suspected discrimination. The proposal for the EU Pay Transparency Directive (see the previous chapter) contains several provisions to help employees recognize and bring up wage discrimination. The proposal also includes several transparency measures – such as the right of employees to receive information – intended to aid employees in identifying any wage differentials, as well as several measures aimed at improving the legal protection of employees.



### **Discrimination against Muslims**

The task of registering discrimination against Muslims, as well as discrimination against transgender persons and other groups of people, should be assigned to the various organizations responsible for receiving discrimination reports that do not yet include these categories in their records, such as the police and the Netherlands Institute for Human Rights. The lack of a precise distinction between the various types of reports renders an interpretation of statistics more difficult and this registration method does not provide municipal authorities with adequate instruments to develop targeted policies.

Policy efforts aimed at increasing the willingness of individual citizens to report discrimination, possibly including the aforementioned campaign for the public at large, will focus specifically on discrimination in the Muslim community as the level of reporting discrimination in this community is very low.

The NCDR also recognizes the desirability of an independent national survey of discrimination against Muslims in the Netherlands, which should be completed within two years. A comprehensive survey that identifies to what extent this specific form of discrimination is found, in what situations and in which domains – such as in the housing market, in healthcare, in public spaces, in financial services – is needed. The NCDR will discuss with various parties, including the State Commission against Discrimination and Racism (*Staatscommissie Discriminatie en Racisme*), whether this survey can be integrated into their working program.

The Face Covering Clothing Act will be evaluated in 2023. This evaluation will include not only the background to and the usefulness and necessity of the Act, but also its effects on the group of people most affected by the Act.

The NCDR has received word from various parties that municipal authorities are employing the Public Administration (Probity Screening) Act in cases involving the establishment of religious institutions, such as mosques or certain churches or schools with an Islamic signature. An initial study will have to be conducted into how often, for what reason and with what result municipal authorities invoke the Act when religious institutions, such as mosques and schools with an Islamic signature, are established.

### **People with a disability**

The town hall session organized for people with a disability also covered the reporting process. Many participants indicated that they did not report discrimination because they were unaware that the contact points for reporting discrimination were open to receive complaints from people with a disability and because they considered the contact points to be inaccessible. Deaf people, for instance, find it hard to get in touch with a contact point, and many people with a mild intellectual disability find the reporting process too complicated.

More generally, the following obstacles were mentioned: poor visibility of the contact point, being in the dark about the importance of making a report, being in the dark about how a report is followed up, and people are unsure whether or not they have experienced discrimination



## 3.4 Current policy and policy reinforcements – Domains

### Education

Segregation in education, the underlying causes and the right indicators for identifying segregation are subjects of current studies, which include policy simulations to discover effective interventions to combat segregation. Another study, conducted by the Dutch Education Council (*Onderwijsraad*) and the School & Safety Foundation, focuses on male and female stereotypes in education.

### Internship discrimination

We have observed that the extent and impact of internship discrimination are out of line with the number of reports. Few pupils and students formally report internship discrimination and, if they want to do so, many of them do not know where to go. They also have little faith in the report being handled and ‘resolved’. Educational institutions and education professionals are struggling with the issue of internship discrimination as well, since they need to support their pupils/students but also depend on employers to offer internships.

37. A TNO study of interventions aimed at reducing labor market discrimination and increasing diversity. See also <https://www.rijksoverheid.nl/documenten/rapporten/2020/06/25/delphi-stu-die-stand-der-wetenschap-arbeids-marktdiscriminatie>.

The NCDR believes that the SBB, the agency responsible for registering reports of internship discrimination in senior secondary vocational education, should pay greater attention and offer more support to ‘victims’ of discrimination as facing actual or suspected discrimination greatly impacts young people.

### Labor market

Several studies are presently examining discrimination in the labor market. One of the completed studies is the Nudging in Recruitment and Selection pilot project, which revolved around the question whether minor adjustments to the recruitment and selection process could contribute to eliminating unconscious prejudice. The project yielded positive results. Another study, which is still ongoing, looks into the effectiveness of instruments in recruitment and selection procedures. This is a more in-depth study that follows on from the previous Delphi study.<sup>37</sup> The study will be finalized later this year and the results will be used to develop a digital guideline for companies with a specific focus on SMEs.

Employers, including the national government and social and educational institutions, are asked to include details of their efforts in the field of diversity and inclusion and in tackling discrimination and inequality (in the broadest sense, such as gender, cultural diversity, people with a disability, sexual orientation, and age) in their annual reports and management reports. Employers delivering outstanding performance can also be put in the spotlight through various initiatives.

### Housing

Published and offered to Parliament in 2021, the results of the first national monitor identifying discrimination in the letting of homes revealed that prospective tenants with a name suggesting a Polish or Moroccan background were less likely to be invited to viewings than





Discrimination is not permitted in the housing market either and cannot be tolerated.



people with a name suggesting a Dutch origin. Real estate agents also turned out to comply with discriminatory requests on a large scale. As discrimination is not permitted in the housing market either and cannot be tolerated, awareness is a permanent point of focus. The Government will annually monitor changes in the net discrimination rate in the housing market by means of correspondence tests and mystery calls. Additional information about the obligations of landlords and real estate agents and the rights of home seekers and tenants has also been made available electronically, and an information campaign will be launched this year.

Responding to the second national monitor identifying discrimination in the letting of homes, conducted in 2022, the Minister for Housing and Spatial Planning intends to follow the recommendations and share the monitoring results with antidiscrimination agencies at a regional level to allow them to enter into targeted discussions with landlords and letting agencies in areas with high net discrimination rates. Regional data from the national monitor gives antidiscrimination agencies a point of reference when speaking with landlords and letting agencies about their obligation to prevent housing discrimination. The first monitor had already revealed that such conversations help raise awareness in the sector of problems associated with housing discrimination. The Ministry of the Interior and Kingdom Relations will start discussions to identify antidiscrimination agencies that are willing to join the pilot project and to determine the project details.<sup>38</sup>

Using mystery guests and correspondence tests, municipal authorities themselves are also investigating the occurrence of discrimination in the letting of homes. They indicate that if these tests lead to a suspicion of discrimination, they are not properly equipped to take action against it. The Ministry of the Interior and Kingdom Relations previously commissioned a study to find out whether this type of investigation results warrants tougher action. This proved not to be the case, mainly because the tests are based on a fictitious profile and there are no specific victims.

#### **Enforcement by municipal authorities**

Municipal authorities indicate that the legal options for taking action are not adequate; not only in the housing market, but in other areas as well, such as the hospitality sector. Municipal authorities state that they have only few instruments at their disposal, if any, to enforce the prohibition of discrimination. The possibilities currently available for enforcement and the imposition of sanctions – for example by imposing penalties, withdrawing permits and licenses and initiating disciplinary procedures – should also be examined. Thorough consideration will have to be given as to how these can be used and whether, alongside these repressive measures, other solutions or a supplementary approach are needed in order to address these problems without resorting to criminal law.

Existing legal frameworks are insufficient to enable municipal authorities to tackle cases of incitement to discriminate. This is an unsatisfactory situation. The possibilities currently available for enforcement and the

<sup>38</sup> Letter to Parliament of June 29, 2022 on tackling housing discrimination, *Parliamentary Documents II*, 2021-22 30 950-922.

imposition of sanctions – for example by imposing penalties, withdrawing permits and licenses and initiating disciplinary procedures – should also be examined. Thorough consideration will have to be given as to how these can be used and whether, alongside these repressive measures, other solutions or a supplementary approach are needed in order to address these problems.

### **Healthcare**

The quality of care people receive also turns out to depend in part on prejudice a healthcare provider, or even the healthcare system, harbors. Such prejudice may have disastrous consequences for people’s mental and physical health and is unacceptable.

The NCDR believes that further qualitative investigation should be conducted into the scope of discrimination in healthcare, including an investigation into the situation in care homes and in home care. It could be conducted through a knowledge program of the Netherlands Organization for Health Research and Development or it could be taken up by the State Commission.

Recommendations ensuing from investigations suggest that one way to resolve the issue is to appoint officers tasked specifically with identifying discrimination within care institutions, alongside a more individual and culturally sensitive work approach.<sup>39</sup> A separate research program should also be initiated into specific female disorders. More knowledge is needed within the educational programs for care professionals

concerning cultural and gender differences and discrimination in general, as well as unintentional discrimination by some professionals.

### **Online discrimination**

The Ministry of Justice and Security provides annual grants to the Center against Internet Discrimination (MiND), the national contact point for reporting discriminatory statements on the internet. MiND annually publishes figures on the number of reports received. These figures are incorporated in the national report containing discrimination figures, which also includes figures provided by the police, antidiscrimination agencies and other parties.

Following a report, MiND performs an independent legal review to determine whether a specific statement is indeed discriminatory and punishable. If so, MiND sends the relevant platform a request to remove the statement. The Public Prosecution Service may also decide to prosecute persons who have posted discriminatory statements or the public prosecutor may demand that the platform remove the illegal content. Having been allocated more tasks with effect from 2022, MiND will ensure that the website [www.mindnederland.nl](http://www.mindnederland.nl) will become accessible in other languages as well, that people making reports can be referred to contact points of other countries, and that a referral page for victims is set up that refers them to appropriate aid or counseling. In 2022, MiND will also actively seek to collaborate with interest groups, the IT industry, antidiscrimination agencies, the police

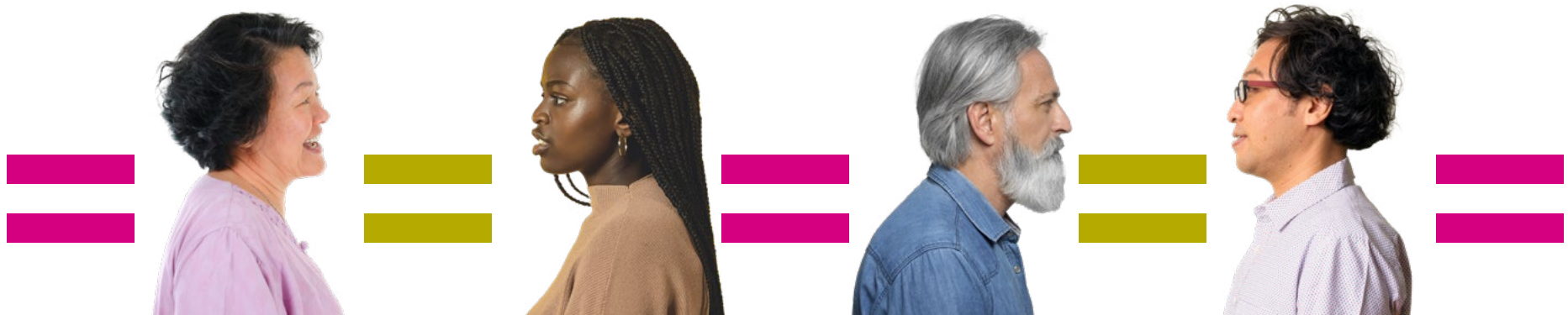
<sup>39</sup>. *Discriminatie en gezondheid, Over de invloed van discriminatie (in de zorg) op gezondheidsverschillen en wat we hieraan kunnen doen*, Dutch Center of Expertise on Health Disparities Pharos, 2022, p.35.

and the Public Prosecution Service to combine indications of discrimination and bring them to the attention of the partners in the chain.

In order to increase willingness to report discrimination and to gain better insight into online discrimination, its scope and other factors, it is important to clearly identify where online discrimination and online hate speech can be reported. Both the awareness of MiND and the findability of the organization as the central contact point for reporting online discrimination should be improved. Greater attention should also be paid to further underpinning and professionalizing the level of knowledge available at all relevant organizations for reporting online discrimination, such as the police and the antidiscrimination agencies. An even broader and better understanding of all reports of online discrimination (by MiND, the police, antidiscrimination agencies and other parties) should follow from an exploratory study of how these reports can be collected and merged for inclusion in annual reports on discrimination figures.

At both national and international level, a substantial amount of knowledge has been gathered and good and bad practices are available about online discrimination and online hate speech and how these expressions of discrimination can be combated. Investigations are currently underway to decide how to establish a knowledge base to compile this knowledge and these practices and how to use and provide access to the information, which includes a consideration of whether a central hotline facility, a knowledge institute or another organization should be responsible for the knowledge base.

The possible use of peer-to-peer education as a means of tackling online discrimination and online hate speech is being investigated in more detail, including studies into online awareness and the setting of social standards on the internet.





‘Unity without diversity  
is suffocating. 

Diversity without unity  
is grains of sand.’

 **King Willem-Alexander of the Netherlands**

# 4. Support and protection



## 4.1 Introduction

People live under the burden of discrimination and racism and the resulting exclusion. Such an experience of exclusion may have disastrous effects on the victim's participation in society. It can impact people's health, wellbeing and prosperity. Experiences of discrimination may also lead people to drop out from work and turn away from society or politics.

The reality is that we live in a society in which groups are increasingly in conflict with each other and where Dutch residents without a migration background are unfairly favored in job interviews, in the housing market and in healthcare.

Tackling that inequality is a shared responsibility. True equality can only exist where people do not feel compelled to deny or explain part of who they are. True equality also means that people can choose how they wish to live their lives.

Any sound approach to the problem of discrimination and exclusion involves supporting and empowering people in at-risk groups and protecting the victims of discrimination.

The coalition agreement 'Looking out for each other, looking ahead to the future' underlines this: "A democratic society can only function if we draw a line when one person's freedom threatens another's, if everyone gets involved and if we take action against discrimination."

Real solutions, policy measures and protective laws are required to prevent groups of people from being treated as inferior based on an implicit hierarchy. The government should take the lead here and shoulder its responsibility. This much we owe to future generations. Young people are entitled to a promising future that offers equal opportunities for everyone and a voice in the debate about a sustainable and inclusive policy.

Instead of countering them, colorblind policies allow inequalities to survive. There is no such thing as a neutral government, in the same way that there are no neutral human beings.

This chapter addresses current policy and policy interventions aimed at supporting and protecting victims of discrimination and racism, partly by means of legislation and enforcement.

## 4.2 Current policy and policy reinforcements – General

### The police

A movement is ongoing to provide the police with even better tools to handle reports made by victims of exclusion. An essential part of this development is the action program The Police is for Everyone (*Politie voor iedereen*). Parliament is regularly kept up to date of developments through semi-annual police reports.

The program The Police is for Everyone calls attention to the importance of strengthening the networks that are part of the Diverse Skills Network, including the Jewish Network and the network of LGBTIQ+ police officers called Pink in Blue. The program The Police is for Everyone is underpinned by safe and inclusive teams that form an important pillar, and the use of inclusive language is the standard. The police also applies an ‘ally approach’, which may consist of keeping in touch with networks of citizens coming from different groups in society.

The police officers who make up the Pink in Blue network support the LGBTIQ+ community, for instance by reporting incidents when requested and wherever possible. The NCDR recognizes the necessity of maintaining the national telephone contact number for Pink in Blue, so that it remains accessible and any reports can be followed up on.

As the police has far-reaching powers in our society, it is key to the police’s legitimacy and people’s trust in the police that everyone feels that the police treats them fairly. As such, it is only right that the police already recognizes the ethnic profiling problem and is actively tackling it. Carrying out professional checks is one of the skills police officers need to possess. The police has started a project to increase the professionalism of the checks, and it will be developed, fine-tuned and implemented. The project will also cover the use of the Proco app, virtual reality glasses and other ways to increase awareness and accountability for arrests, and the associated monitoring. A point of study could be whether bodycams could be used as a means to check police actions. This might also produce a picture of citizens’ attitude towards police officers.

The coalition agreement highlights the deployment of police discrimination detectives to enhance expertise within the units when it comes to taking down reports of discrimination. As part of the action program The Police is for Everyone, for the next three and a half years the police will be carrying out a pilot project in which national expertise will be gained with tackling discrimination.

Reports of discrimination are important for gaining a better understanding of how to fight discrimination. The police must act in line with the Discrimination Instruction of the Public Prosecution Service to the greatest extent possible if and when a citizen wants to report discrimination. This involves not only taking down the report, but also properly informing the citizen about the follow-up process

and what the citizen may expect in this regard. The Center of Expertise on Tackling Discrimination of the police is preparing a framework for action to support police employees in the units.

The police has set itself the goal of continuing to work towards a diverse and inclusive organization in the years to come, as it aims to be a reflection of society. The police considers it self-evident that there is a place for all suitable prospective employees to work for the police. The legitimacy of the police partly depends on it being a recognizable police; a precondition here is that diversity and inclusion are fully embedded in the organization. This calls for vigilance in that targets are not the only point of concern; promotion and an inclusive working environment in the organization are other factors to be considered.

The police exists for everybody and by the grace of everybody, and serves the whole of society. The police wishes to be inclusive and to be a true reflection of society. One question currently occupying society is whether this desire is expressed in the regulations laid down in the lifestyle neutrality code of conduct. This code specifies that police employees (and special investigating officers), while on duty in uniform, must refrain from all expressions reflecting a political, religious or other preference – which could thereby detract from a safe and neutral professional attitude – which prevents certain groups of people being eligible to perform police tasks.

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40. *Parliamentary Documents II 2021-2022*,  
35925 VI, no. 41 and no. 56.

At the same time, the Dutch Parliament recently tabled two motions<sup>40</sup> to emphasize that the secularity of government is of special value in our state structure and that, as a result, any expressions of religious conviction on the police uniform are inappropriate. It turns out that the social discussion on this topic is far from reaching its final conclusion, and the discussion on the extent to which religious expressions such as a headscarf or a yarmulke as part of the clothing of, for example, a police officer detract from the neutrality of the government needs to be continued. With a view to the future, the NCDR is keen to engage in that dialogue with all affected parties and stakeholders.

Legitimate police operations and trust in the police can only continue to exist if citizens are able to submit complaints about behavior displayed by the police or police officers and if these complaints are adequately addressed. The police intends to make its complaints handling procedure more professional, partly based on the recommendations stated in the National Ombudsman's report *Verkleurde beelden* ("Colored Pictures"). In doing so, the police will also ensure that complaints are handled within short periods of time and that the procedure is focused primarily on establishing the truth. Seeking to increase safety and inclusivity in teams, the police is improving the ways in which internal complaints and reports about discriminatory behavior within the police organization itself are handled.



In line with the Regional Mayors' proposals – the Regional Mayors' Strategic Agenda 2022-2025 – a wide-ranging investigation by an independent research institute is due to take place in the police into discrimination and racism within the police organization, which will partly be aimed at determining the effectiveness of the police force's own antidiscrimination policy. The State Commission against Discrimination and Racism could take up this investigation.

#### Legal system

There may be good reasons not to punish the perpetrators of discrimination and racism by merely sentencing them to a fine or imprisonment, but to consider whether additional community service (or a training order for juveniles) would be advisable. The purpose would be to make it clear to perpetrators why discrimination and racism are unacceptable. Because these punitive measures clearly show the impact of discrimination and racism on victims, they are expected to be effective in preventing repeat offenses. By way of illustration, in the past a few people who had expressed their antisemitic sentiments were ordered by the court to perform community service, which was to be carried out partly in the Anne Frank House.<sup>41</sup>

Depending on the discriminatory ground, several civil society organizations may be called upon to develop ideas for an educational program for young offenders. These organizations (for example the Anne Frank House and COC, a Dutch LGBTIQ+ organization) may also have a role to play in the implementation of these training orders.

Good examples of similar options for imposing sanctions are found in minor traffic violations. The Educational Measure Alcohol is a well-known example, under which a person convicted of a drink driving offence is required to follow a compulsory rehabilitation course. Similarly, an 'Educational Measure Discrimination' may be introduced as a type of alternative training order.

<sup>41</sup> See judgment ECLI:NL:R-BUTR:2011:BP0216.

### **Institutional racism**

There are growing calls – expressed among others by the Council for the Judiciary – for a constitutional review of formal laws. Although formal laws can already be reviewed on the basis of the fundamental principles of law as formulated in international treaties, the same purpose could equally well be served by our own Constitution, also because our own Constitution is better known to Dutch citizens.

The Government recently sent an outline letter on this subject.<sup>42</sup>

We must attempt to avoid any elements of exclusion in our laws. Even if such an element is neutrally formulated, it can in practice result in the indirect exclusion of groups of people based on their socioeconomic class, income or other characteristics. In that context, the Government intends to identify as soon as possible the potential effects that the Money Laundering and Terrorist Financing (Prevention) Act has on specific groups of people in practice, and the consequences these have for their ability to participate in the financial services sector. This identification process is in line with a motion adopted on March 30, 2022, which calls upon the government to urgently investigate the risk selections that banks employ to implement the Money Laundering and Terrorist Financing (Prevention) Act.<sup>43</sup>

It is also essential for tackling institutional discrimination that existing government inspectorates have a clear understanding of institutional discrimination within their purview and are able to take enforcement action where necessary. A general guideline for inspections is being prepared for that purpose.

42. *Parliamentary Documents II, 2021-2022*, 35 925-VII-169.

43. *Parliamentary Documents II 2021-2022*, 31 477 no. 66.



## 4.3 Current policy and policy reinforcements – Discriminatory grounds

### **Anti-Black racism**

Numerous initiatives have been launched to increase the involvement of municipal authorities in efforts to tackle local discrimination of Black members of the community. The purpose of these efforts is to reinforce contact between municipal authorities and local Afro-Dutch communities. The NCDR is asking the Government to free up additional financial resources to help municipal authorities become more involved in the UN International Decade for People of African Descent.

### **Discrimination against Muslims**

Tackling hate speech is necessary to prevent stigmatization, exclusion and discrimination resulting from expressions of hatred against Muslims and other groups. The fight against hate speech will be explored in line with the European Commission's proposal to give priority to expressions of hatred and hate crimes and, to that end, add them to the list of EU crimes stated in Article 83(1) TFEU.

### **Antiziganism**

Another project initiated by the government is a pilot project that aims to increase the participation of young Roma and Sinti in education and the labor market, with municipal authorities and key figures from the communities acting as intermediaries. The

communities are also expressly involved when issues relevant to the community itself are explored and when policy intentions are reviewed.

### **Antisemitism**

As part of its mandate, the NCAB supervises the security situation of Jewish institutions, which is monitored by intelligence and security services. The tasks of guarding and securing religious institutions have been decentralized. If threats and risks give cause to do so, the local authorities may take appropriate security measures.

The NCAB is familiar with the legislative bill that criminalizes condoning, denying or grossly trivializing crimes of genocide, crimes against humanity and war crimes. On June 9, 2021, the European Commission informed the Ministry of Foreign Affairs of its opinion that the text of the Dutch Criminal Code insufficiently reflects that – briefly put – publicly condoning, denying or grossly trivializing crimes of genocide (Article 1(1)(c) and (d) of the Racism Framework Decision) is punishable. In response, the Netherlands is expected to submit a proposal for the re-implementation of Article 137c for consultation this spring, which will result in the express incorporation in the law that the aforementioned specific actions may qualify as group insult.

### **People with a disability**

Applying to the Netherlands since 2016, the UN Convention on the Rights of Persons with Disabilities (UN CRPD) aims to improve the position of people with a disability in such areas as work, education,

transport, culture, sports and other leisure activities. The Convention does not confer new rights on people with a disability, but instead guarantees their equal access to human rights that apply to all. Major basic principles underpinning the UN CRPD are independence, full participation and ease of access. The Netherlands Institute for Human Rights monitors the implementation of the Convention in the Netherlands.

In 2018, the Government launched the Unlimited Participation! program of the Ministry of Health, Welfare and Sport to implement the UN CRPD, which stipulates what action the Netherlands must take to improve the position of people with a disability. To achieve this, the Ministry has pooled resources with other Ministries, municipal authorities, companies and organizations, including the UN Convention Alliance (*Alliantie VN-verdrag*), a coalition of interest groups for people with a disability in which network organization Ieder(in) also participates.

Aimed at raising awareness of barriers that people with a disability come across in practice, the Unlimited Participation! program focuses partly on bringing about a shift from a medical model to a social model. The medical model views a disability as an abnormality in an individual's mind or body; the social model, by contrast, considers how the surroundings can be structured so as to allow everyone to participate in society. As such, the social model provides a different perspective of looking at society. The Unlimited Participation! program also opts to view the issue from the angle of

participation rather than discrimination, as requested by this group of people.

The Minister for Long-term Care and Sport bears policy responsibility for the coordination of the UN CRPD implementation and, in April 2022, sent an action plan to Parliament addressing the follow-up of the Unlimited Participation! program. It is up to other departments to implement certain substantive aspects of the Convention, with specific ambitions on several topics also being incorporated into the coalition agreement.

Recently, a movement has emerged in which numerous parties set to work on creating a more accessible and inclusive society. The Government intends to use the ensuing momentum to take more steps in the period ahead. The action plan describes how the follow-up steps will be structured, which may take the form of activities aimed at increasing knowledge and raising awareness, the use of experts by experience and the conclusion of inclusion pacts with initiators that seek to cooperate to bring about concrete accessibility and inclusion improvements.

On March 17 and September 27, 2021, the previous Government informed Parliament of the decision-making process for the signing and ratification of the Optional Protocol to the UN CRPD. The Government believes that financial and legal implications are major aspects in the decision-making process surrounding the ratification of the Optional Protocol and protocols associated with other human

rights treaties. A UN evaluation on the functioning of the Convention committees, which could have added to the knowledge, has been delayed for an unknown period of time on the back of the COVID-19 pandemic. That is why the Government asked the Council of State to provide information about the financial and legal implications of the Optional Protocols to the UN CRPD and the ICESCR and the Third Protocol to the UNCRC. The information has now been obtained from the Council of State and the aim is to provide a response around November 1, 2022. The Government will be able to consider further steps to be taken partly on the basis of the information provided by the Council of State. Interest groups, the Netherlands Institute for Human Rights and Parliament are calling for the ratification of the Optional Protocol to the UN CRPD.

The Netherlands Institute for Human Rights has advocated a UN CRPD network of civil servants who act as liaison officers. The initial structure of the network is found both between and within Ministries. In concert with the Ministry of Health, Welfare and Sport, the Institute has also organized a number of meetings to speak with employees of several departments and experts by experience.

#### **People with a disability**

The NCDR argues for the rapid signing of the Optional Protocol to the UN CRPD.

The Ministry of the Interior and Kingdom Relations has also commissioned the Royal Netherlands Standardization Institute (NEN) to

prepare a voluntary standard for accessible building practices.

The Institute collaborates with a broad group of representatives of the construction world, housing associations, property developers, architects, government authorities and consumers in the process.

The standard may be viewed as a guideline for more accessible building practices and will supplement the current Building Decree, which already contains general requirements on building accessibility. Consideration is also being given to ensuring that as many parties as possible will make use of the standard.

#### **LGBTIQ+ persons**

Surveys have revealed that LGBTIQ+ persons regularly face violence and discrimination in public spaces. The Ministry of Education, Culture and Science focuses on prevention by fostering acceptance. Aiming to promote the safety of LGBTIQ+ persons, the Ministry of Justice and Security has prepared the 2019-2022 LGBTI Safety Action Plan together with the Ministry of Education, Culture and Science and the municipal authorities of the four largest municipalities in order to increase social safety at the local, regional and national levels. The Safe Cities, Rainbow Cities and Rainbow Provinces partnerships encourage local authorities to develop policies intended to prevent violence.

In collaboration with the Ministry of Education, Culture and Science, the Ministry of Justice and Security has commissioned the Research and Documentation Center (*Wetenschappelijk Onderzoek- en*



*Documentatiecentrum*; WODC) to conduct a study to gain a better understanding of the perpetrator profiles of those who commit violence against LGBTIQ+ persons. The results may contribute to future policies aimed at promoting the safety of LGBTIQ+ persons.

The Government supports the Level Playing Field Alliance (*Alliantie Gelijkspelen*), which was set up to create a safe environment for all top athletes, amateurs and fans and to make a stand against homophobia and transphobia in sports. Following this example, the Sports and Movement for Everyone alliance also addresses this issue. The Ministry of Education, Culture and Science also supports the Shared Pride, Shared Luck alliance, which focuses on the social acceptance and safety of LGBTIQ+ persons.

The Government disapproves of conversion practices – also known as ‘sexual orientation and gender identity change efforts’ (SOGICE), ‘reparative therapy’ or ‘conversion therapy’ – aimed at bringing about a change in sexual identity, gender identity and/or gender expression. Seeking to safeguard the human dignity of each and every individual, the Government wants to prevent and counteract such practices now and in the future. The ‘Exploratory study of legal and policy interventions to prevent and combat ‘conversion therapy’” has been completed and was sent to Parliament on May 16, 2022 also on behalf of the Minister of Education, Culture and Science, the Minister of Justice and Security and the Minister of the Interior and Kingdom Relations. The policy response was sent to Parliament on July 5, 2022.<sup>44</sup> The exploratory study is a follow-up to the report *Voor*

*de verandering* (‘For a Change’), which was sent to Parliament on May 28, 2021.

In preparing such a prohibition under the law, the Government eagerly awaits the private member’s bill within the Parliament and the recommendations from the Council of State. A prohibition will set the standard and will offer support to people who have undergone conversion practices.

In the European Netherlands, there are at least fifteen providers of conversion therapy programs that attempt to change, suppress or ‘repair’ a person’s sexual or gender identity. Conversion practices obviously do not bring about any change in sexual orientation or gender identity. Numerous studies have revealed that victims suffer serious adverse consequences, ranging from depression to attempted suicide. The NCDR therefore calls upon the Dutch Parliament to embrace the private member’s bill aimed at criminalizing conversion therapy treatments in the European Netherlands and the Caribbean Netherlands. In preparing a prohibition under the law, the Government eagerly awaits the private member’s bill within the Parliament and the recommendations from the Council of State.

Parliament also instructed that a study be conducted of how transition leave may be arranged for transgender individuals, as the current leave schemes do not sufficiently allow for this. A response to the results of the report will be provided later this year.

44. Parliamentary Documents // 2021-2022 30 420, no. 371.

In response to the report by the State Commission for Review of Parenting (*Staatscommissie Herijking Ouderschap*), a shared custody scheme has been worked out for individuals who are closely involved in the care and upbringing of a child but who presently do not have custody. A bill on surrogate motherhood has also been prepared.

The tightening of the Equal Treatment Act ensures that the legal position of transgender and intersex individuals is now expressly enshrined in the law.

Discrimination against non-binary, intersex and transgender individuals is currently not explicitly prohibited in the Dutch Criminal Code. Transgender, intersex and non-binary persons are therefore not protected in law against expressions of group insult, despite being exposed to much discrimination. Moreover, the terms 'heterosexual and homosexual orientation' are not inclusive. The term 'sexual orientation' should be used in the law. It is also important to investigate whether the terms sexual characteristics, gender identity and gender expression need to be added.

A bill has been presented to Parliament that is intended to simplify the procedure for changing gender registration by cancelling the expert opinion and age limit and through other measures.

Around 4 percent of all Dutch people do not identify as male or female. They see themselves as non-binary, for example. This group is faced with many uncomfortable situations in daily life because at present it is only possible to officially register gender as male or female. It should be easily possible to have the official gender registration deleted and replaced by an 'X' without judicial intervention. The NCDR eagerly awaits the outcome of the discussion of the bill.



LGBTIQ+ persons regularly face violence and discrimination in public spaces.

## 4.4 Current policy and policy reinforcements – Domains

### Education

In a letter to Parliament on reinforcing social safety in schools, the Minister for Primary and Secondary Education indicated that the following two reinforcement goals would be pursued:

1. raising the bar in respect of social safety to ensure that all pupils and teachers feel free to be themselves and feel safe;
2. improved counseling and aftercare for pupils and parents in case of unexpected setbacks; and
3. taking earlier and firmer action where needed.

When working out and pursuing these ambitions, specific attention will be paid to vulnerable pupils such as young LGBTIQ+ persons. This will be based on the question of what needs to be done to increase their actual safety as well as their sense of safety, with a specific focus within general interventions and additional measures tailored specifically to these groups.<sup>45</sup>

### Healthcare

The Ministry of Health, Welfare and Sport has developed the Ministry-wide Discrimination and Equal Opportunities Approach to coordinate efforts to tackle discrimination and promote equal opportunities (with a specific emphasis on discrimination as an

impeding factor) as part of the Ministry's policy. The approach encompasses well-known discriminatory grounds, such as age, gender, sexual orientation, race, religion, nationality, disability, political opinion, marital status or form of labor. It combines bonding and bridging, awareness and knowledge gathering aimed at creating a perspective for action for the Ministry's policy practice in coordination with parties in the field.

Reducing health differences is a major pillar in the National Health Policy Memorandum, which contains the ambition to increase by 2024 both the life expectancy of people with a low socioeconomic status (SES) and the number of years people with a low or high SES live in perceived good health. Programs such as Healthy in the City (*Gezond in de Stad*; GIDS) and Promising Start (*Kansrijke Start*), intended to tackle health differences, contribute to achieving this ambition. The Health in the City support program helps more than 150 municipal authorities to set up a wide and comprehensive approach to reducing health differences. In the Promising Start program, the national government has joined municipal authorities and professionals from the social and medical domains in local coalitions to give as many children as possible a promising start for the first 1,000 days of their lives. The interdepartmental Health Impact Steering Group is also working on an interdepartmental approach to reducing health gaps under the direction of the Ministry of Health, Welfare and Sport. Promoting health skills is a major point of focus of the programs and of center of expertise Pharos.

<sup>45</sup> *Parliamentary Documents II 2021-2022*  
31 293, no. 611.

### **Labor market**

Prepared and offered to Parliament under the previous Government, the Bill on Monitoring Equal Opportunities in Recruitment and Selection elaborates on the previous coalition agreement and obligates employers and intermediaries to prepare a recruitment and selection procedure containing adequate safeguards for combating discrimination and creating equal opportunities. The procedure must demonstrate that the employer or intermediary has structured the recruitment and selection process in such a way that labor market discrimination is prevented. Recruitment and selection must be based on job requirements relevant to the position, and the procedure must be clear and verifiable and be structured and applied in a systematic manner. The Netherlands Labor Authority will be assigned supervisory powers and – after having imposed a demand for compliance – will be able to impose fines when employers or intermediaries break the rules.

The coalition agreement states that a reporting obligation will be introduced for organizations that engage in discriminatory or racist behavior; this reporting obligation will be added to the bill. The staffing industry is a major player in the labor market and, as such, needs to be involved in tackling discrimination in the labor market. It matches labor supply and demand and plays a role in providing equal opportunities in recruitment and selection procedures. The reporting obligation requires intermediaries to report to the Netherlands Labor Authority any requests that potentially result in labor market discrimination. This means that intermediaries must

have a procedure in place on how to handle discriminatory requests and must follow this procedure in case a request is suspected to be discriminatory, which should combat and prevent discriminatory requests by clients even more. Several routes have been explored in consultation with the staffing industry and other parties to identify a form that is potentially the most effective, in which intermediaries are able to discuss discriminatory requests with clients as part of the procedure for handling discriminatory requests. This will already resolve some of the requests. Where discussions are insufficiently effective, the relevant request must be reported. The Netherlands Labor Authority may follow up on reports by auditing the relevant client's recruitment and selection policy and – after having imposed a demand for compliance – will be able to impose a fine if the rules were broken. The Netherlands Labor Authority also monitors whether intermediaries have a procedure in place and whether it is properly detailed and followed.

### **Housing**

The coalition agreement announces that a “notification requirement, registration requirement or landlord permit” will be introduced, which “will enable local authorities to take more targeted measures to combat discrimination and dishonest landlords”.

Currently awaiting discussion by Parliament, the Good Landlord Practices Bill introduces a national enforceable basic standard for good landlord practices in the form of general rules that will apply to all landlords and letting agencies. One of the rules is intended to



prevent and combat discrimination, which entails that landlords and letting agencies must refrain from all types of unjustified distinctions by:

- applying a clear and transparent selection process;
- using objective and non-discriminatory selection criteria and clearly communicating them; and
- providing rejected prospective tenants with reasons for choosing a specific tenant.

Municipal authorities will be charged with the task of taking administrative enforcement action to ensure compliance with the rules in respect of private landlords. In addition to the general rules, municipal authorities will be given the power to implement a permit requirement for the letting of 'regular housing' and 'accommodation for migrant workers'. Aiming to facilitate enforcement by municipal authorities, the bill requires municipal authorities to establish an accessible contact point where tenants, home seekers and others can raise their suspicions of, and lodge complaints about, undesirable behavior by landlords or letting agencies and where they can do so anonymously and free of charge.

The Utrecht municipal authorities are presently exploring whether a reporting obligation would make an effective supplementary instrument in tackling discrimination in the letting of homes. If a landlord submits a discriminatory request to a real estate agent, the latter will be required to report it. The Utrecht municipal authorities have initiated a pilot project to test whether this obligation is legally

tenable, effective and feasible in practice and to what extent mystery calls may contribute to enforcement of the reporting obligation. The exploratory study also covers developments in the labor market.

46. Erasmus University Rotterdam (2020): <https://www.eur.nl/nieuws/een-ongelijke-verdeling-van-kansen>.

47. Rapport Selectieve woningtoewijzing. Landelijke evaluatie van artikel 8, 9 en 10 van de Wet bijzondere maatregelen grootstedelijke problematiek, RIG0, March 29 2021; *Parliamentary Documents II*, 2020/21,33 340, no. 24.

48. There are a few exceptions though: the requirement does not apply to young people who are studying (and who are registered with Education Executive Agency DUO) or pensioners. Should a permit be refused, the municipal authorities may apply the hardship clause of Article 8 (and Article 10) of the Act in urgent cases.

49. If home seekers are not granted a permit, they must still have sufficient options to find appropriate housing elsewhere in the region. The Minister will request the provincial authorities to advise when the application of the municipal authorities is assessed.

50. *Garib vs. The Netherlands*, EHRM 6 November 2017, case number 43494/09.

The Act on Extraordinary Measures for Urban Problems (also known as the ‘Rotterdam Act’) offers municipal authorities the possibility of operating a system of selective housing allocation in certain vulnerable neighborhoods. This special measure contributes to better prospects for residents and equal opportunities for children. Research by Erasmus University Rotterdam has revealed that growing up in a vulnerable neighborhood is a clear marker for fewer opportunities in later life.<sup>46</sup> However, operating a selective housing allocation policy can also have far-reaching consequences for individuals wishing to live in these areas as well, as it restricts freedom of establishment. In their housing allocation policy, municipal authorities can impose requirements on the nature of an individual’s income (Article 8), give priority on the basis of certain socioeconomic characteristics, for example for specific professional groups (Article 9), or screen home seekers for nuisance or criminal behavior (Article 10).

The measures result in more mixed neighborhoods that are less socioeconomically vulnerable. On the other hand, it is difficult to estimate the effects on quality of life, as the intention of this measure is part of a wide-ranging integrated area approach, and external factors also have an impact.<sup>47</sup>

In applying Article 8, municipal authorities can refuse to grant a housing permit to home seekers without paid employment in specific vulnerable neighborhoods<sup>48,49</sup> in order to create a more balanced socioeconomic composition of the population and counteract excessive income segregation. The European Court of Human Rights has ruled that the

application of selective housing allocation pursuant to Article 8 is not in violation of the ECHR and that limiting the freedom of establishment is justified.<sup>50</sup>

In the current criteria of Article 8, a distinction is made between home seekers without paid employment who have lived in the region for six years or more and those who have lived there for less than six years. Only the latter group is negatively affected by the measure, a fact that may also have consequences for newcomers to the Netherlands. In addition, the municipal authorities involved have indicated in the framework of a national evaluation that Article 8 needs to be revised to make it more effective.

The Minister for Housing and Spatial Planning intends to revise the Act on the basis of the evaluation of the Act and possibly the above considerations as well. The Dutch Parliament will be duly informed this autumn.

### **Local policies**

Tackling discrimination at a local level calls for a multifaceted policy under which signs of discrimination and the corresponding trends are properly taken up in every neighborhood, preventive and repressive measures are implemented and the parties are brought together and involved in the approach. Discrimination also covers many grounds and affects all sorts of areas – such as people’s living environment, schools, sports and the workplace, as well as

demonstrations, vandalism at mosques or graffiti in cemeteries – and may affect different groups of people. As a result, efforts to tackle discrimination must cover multiple policy areas and departments of municipal authorities. It is important not only to raise discrimination awareness and create antidiscrimination policies in all these departments, but also to interconnect the approaches adopted by all these parties and to make a single party responsible for the approach taken by the municipal authority as a whole. This means that designating a portfolio holder within each Municipal Executive is advisable; the Ministry of the Interior and Kingdom Relations will discuss this issue with the Association of Netherlands Municipalities and the municipal authorities.

Municipal authorities have a vital task in tackling discrimination. Firstly because they can ensure that the approach to discrimination is truly placed on the political agenda, and secondly because local political bodies are able to free up the human and financial resources needed to provide better care to the victims of discrimination and racism.

The Municipal Executive also has a role to play. The NCDR calls upon all mayors to shoulder responsibility.

The Ministry of the Interior and Kingdom Relations plans to analyze whether, how and to what extent municipal coalition agreements contain antidiscrimination policy.

### Hospitality sector

Just like all other forms of discrimination, discrimination in the hospitality sector is incompatible with the prohibition of discrimination and the principle of equality as laid down in our Constitution and as fleshed out in the Dutch Criminal Code, the Equal Treatment Act and other legislation. Article 7 of the Equal Treatment Act includes a prohibition on making an unlawful distinction based on origin or other characteristics when offering goods and services, which includes access to hotel and catering establishments. This means that denying a person access to a hotel or catering establishment because of their origin is not permitted.

Discrimination in the hotel and catering sector may also be punishable pursuant to Article 137g or 429quater of the Dutch Criminal Code, or the person in question may hold the owner of the hotel or catering establishment liable for the loss and damage suffered by instituting civil proceedings.

If discrimination in the hospitality sector is to be tackled, it is of vital importance that recognition of the problem is improved, a behavioral change is brought about in the sector and victims' willingness to report discrimination is increased. Municipal authorities have an important role to play in the prevention of and fight against discrimination in the hospitality sector, as they can develop policy and can take administrative measures where necessary.

In the spring of 2018, all municipal authorities were offered the Guideline for Antidiscrimination Policy of Municipal Authorities to help them tackle discrimination locally. Referring to the Guideline for Tackling Discrimination in the Hospitality Sector by Municipal Authorities, it describes what municipal authorities can do to combat discrimination in the hospitality sector.

The antidiscrimination agencies and Door Policy Panels are key parties in the process. Discrimination complaints may be reported to these organizations, which may follow up by offering support in the



form of a further investigation and mediation. They may also carry out checks on door policies and provide advice.

### **Online**

Being charged with enforcing antidiscrimination rules under criminal law, in its annual report *Cijfers in Beeld* ('Figures in the Picture') the Public Prosecution Service reports on specific discrimination offenses and offenses under general criminal law that have an aspect of discrimination, including offenses committed on the internet.

On December 8, 2021, the European Commission published a proposal containing its intention to expand the list of EU crimes stated in Article 83 TFEU with hate crime and hate speech. Article 83 TFEU encompasses the establishment of common rules for certain criminal offenses included in the first paragraph of that Article, known as 'EU crimes'; the Commission intends to add hate crime and hate speech to these offenses. Article 83(1) TFEU provides the Commission with a basis for proposing directives. The Dutch Government is in favor of the proposal to add expressions of hatred and hate crimes to the list of Article 83(1) TFEU.





The NCDR calls for the urgent elimination of both formal and factual differences in the protection of human rights between the European and the Caribbean Netherlands.



## 4.5 Current policy and policy reinforcements – Caribbean Netherlands

Discrimination is prohibited, irrespective of whether you are in the European part of the Netherlands or on the islands of the Caribbean Netherlands. Although the right to equal treatment and the prohibition of discrimination – guaranteed in Article 1 of our Constitution and international treaties such as the European Convention on Human Rights – also apply in the Caribbean Netherlands, legislation on equal treatment still does not apply fully in the Caribbean Netherlands. This partly ensues from arrangements the national government and the public bodies made on the limited introduction of legislation (legislative restraint) following the political reform in 2010. The introduction of the comply or explain principle entails that legislative restraint is abandoned. In the period ahead, deliberations will focus on legislation that needs to be amended in the context of the introduction of the comply or explain principle; an amendment to the equal treatment legislation will form part of this operation.

In the autumn of 2022, the Ministry of the Interior and Kingdom Relations will complete the exploratory study of options for implementing equal treatment legislation in the Caribbean Netherlands. The study will result in possible follow-up steps to be taken in collaboration with the islands.

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51. *Parliamentary Documents II 2021-2022*  
28 345, no. 256.

Human rights protection is presently not safeguarded in a uniform way when it comes to the issue of equal treatment. Discrimination is prohibited in the European and in the Caribbean parts of the Netherlands. Although Article 1 of our Constitution as well as international treaties such as the European Convention on Human Rights also apply in the Caribbean Netherlands, to a large extent legislation on equal treatment still does not apply in the Caribbean Netherlands. Improving human rights requires a sound infrastructure. For example, it is vital that an organization where discrimination can be reported is established on the islands, open to residents with questions and complaints about the government, employers or any other parties. In the European Netherlands, the Municipal Antidiscrimination Provisions Act ensures that, as far as possible, Dutch citizens can seek support in their immediate environment when facing discrimination. The Act guarantees every citizen access to an antidiscrimination agency. As the Act does not apply in the Caribbean Netherlands, it should urgently be implemented in the Caribbean Netherlands.

The NCDR calls for the urgent elimination of both formal and factual differences in the protection of human rights between the European and the Caribbean Netherlands by laying down a fixed timetable for the speedy implementation of equal opportunities legislation in the Caribbean Netherlands and human rights treaties such as the UN CRPD, and for ratifying the Istanbul Convention. This Convention imposes requirements on preventing and combating violence against women and domestic violence in all its aspects. The Convention came into effect in the European Netherlands on March 1, 2016, but not in the Caribbean Netherlands. The State Secretary for Health, Welfare and Sport promised the Dutch Parliament in a letter of February 25, 2022 that he will take steps towards ratification of the Convention in the Caribbean Netherlands and announced his intention to ratify the Convention in 2025.<sup>52</sup>

The rights of LGBTIQ+ persons in the Caribbean Netherlands should also be brought into line with the rights that exist in the European

Netherlands. The 'Transgender Act' – which is currently in force in the Netherlands and which states that only an expert opinion is required to change legal gender registration – is not yet in effect on the BES islands. At present, transgender persons only have the option to change their gender registration in the European Netherlands by following the Dutch procedure, before then registering the change on the BES islands. This is unnecessarily time consuming and costly for those involved.

Article 227 of the BES Islands Civil Code also still specifies that a child can only be adopted by a mixed-sex couple or a single person. This requirement was changed in the Netherlands as early as 2009. Partner's pension rights for same-sex partners are also not yet regulated. The core objectives on sexual diversity do not yet apply on the BES islands, either. The new civic education directive (including a passage on the right to a safe environment irrespective of, for example, sexual orientation) is not yet in force on the BES islands. The NCDR calls upon the government to also rectify this situation as quickly as possible.



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