

**The Netherlands Institute for Human Rights
Submission**

**to the Eighty-seventh Session of the UN Committee on the Elimination of all
forms of racial discrimination (CERD) on the Examination of the combined
nineteenth to twenty-first Periodic Reports of the Netherlands**

June 2015

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I. Summary and Items of consideration

Prevention, Targeted policies if necessary, and Combating discrimination as a Governments' responsibility

Prevention

The Netherlands Institute for Human Rights (hereinafter: 'the Institute') as its first and most important item for consideration notes that, while the Dutch Government in the past few years has stepped up its efforts to combat discrimination, it deploys insufficient activities aimed at preventing discrimination. This relative lack of attention provided to prevention appears in almost all themes addressed in the Institute's submission.

For various themes, the Institute observes that the focus of the approach to tackle discrimination deployed by the government is mainly on implementing repressive policies. This is, for instance, readily observed in the fact that the government puts a tremendous effort into improving the willingness of citizens to report discrimination to the police and the Anti-Discrimination Services. This focus is, however, problematic, in view of the reports that the police does not always register discrimination reports filed and that the Public Prosecution Service only decides to start up criminal proceedings in a very limited number of cases actually registered by the police. The Government should, then, invest more heavily in preventive policy, such as identifying and removing the root causes of discrimination. A repressive approach to discrimination should be an approach of last resort. A preventive approach also includes the duty to counter the ethnic, religious and gender stereotypes and prejudices that generally underlie discrimination. The Government should be aware that not all discrimination is explicit and intentional. Subtle discrimination, for instance, usually stems from stereotyping and is often implicit and unintentional.

The Institute also observes that the Government still has too narrow a view of its preventive duty, considering it to only constitute the provision of information and the education of youths in school and of the general public (the long-term public awareness campaign). The Government should make better use of additional options, like offering training, including on the topic of human rights, to relevant professions, like teachers, police officials and members of the judiciary.

Targeted policies if necessary

The second item of consideration identified by the Institute is the way the Government's current generic policy to combat discrimination is implemented, following a period of targeted policies aimed at specific groups. The Institute endorses the Government's starting principle that such generic policy should, in principle, be effective for all groups and that supplementary measures relating to specific groups should be implemented if necessary. However, the Institute finds that too few specific measures for the benefit of groups insufficiently helped by the generic policy are implemented. This is exemplified, for instance, by the way the Civic Integration Abroad Act is implemented: too strict an enforcement of the obligation to pass the civic integration exam results in vulnerable groups, like illiterates and women with little education, being affected disproportionately hard.

As another example, the Institute discusses the observed failure of the general policy to combat discrimination of ethnic minority groups in the labour market. Unemployment is relatively high amongst migrant youths, including highly educated ones, which cannot be considered separately from the (demonstrated) discrimination on the grounds of race and religion in the recruitment and selection practices of employers, temporary employment agencies and others. In its description of the Government's approach to tackling discrimination in the labour market, the Institute points out that the Government's own 'custom solutions' policy principle commits it to implement further measures to improve the labour participation of, especially, young migrants, and to do so by implementing supportive measures and by - and this is not the same! - combating discrimination for as long as these people find themselves disadvantaged. The same need for the implementation of targeted policies is observed by the Institute with respect to the (increased) discrimination of girls wearing a hijab when trying to land an internship post. The disadvantaged position of Roma and Sinti in the Netherlands, too, requires increased attention and further measures, as it has been proven that this helps to improve their position. The Government thus far has implemented too few such supplementary measures aimed at specific disadvantaged groups in a vulnerable position. Nor did it implement them in the framework of the benchmarking of the 2010 Action Plan to Combat Discrimination or the National Action Plan on Human Rights.

The Institute believes minority organisations to play a major part in drawing attention to the early identification of problems, so as to come to a preventive approach. The Institute is therefore concerned about the disbandment of the National Ethnic Minorities Consultative Committee (LOM). The Institute wonders how the Government is currently able to guarantee that structural consultations are held with ethnic minority organisations to discover whether the general policy affects them and is sufficient. Too little evidence currently exists that such consultations are held.

Combating discrimination as a Governments' responsibility

Third, the Institute notes that the Government has shifted too much responsibility for combating discrimination and the full participation in Dutch society and labour market to the individual citizen. In the above, we already referred to the emphasis the Government places on citizens reporting discrimination. One problem arising from this focus is that the government implicitly puts too large a share of the responsibility for combating discrimination with the (potential) victims of discrimination. This Governmental hands-off approach is also identified by the Institute in the policies on immigration and integration. Too much of the responsibility for integration rests with the migrant, now that the Government has scaled down its involvement in this process. Yet it is the duty of the Government to tackle discrimination, and especially to prevent discrimination from occurring in the first place. Government's awareness for its primary responsibility seems to be lacking.

The Institute also reports on this 'wait-and-see' approach in the sections on political intolerance in the public and political debate, providing particular attention to the annually recurring debate on 'Black Pete'. The Institute believes that the central Government should be more involved and take a more prominent stand in this latter, wider debate on racial discrimination and the role of racial stereotyping, such in view of its duty to counter stereotyping.

II. Reading guide

This submission by the Netherlands Institute for Human Rights (hereinafter: the 'Institute') was drawn up to provide the UN Committee on the Elimination of Racial Discrimination (hereinafter: the 'CERD Committee') with information to be used in the consideration of the report of the Dutch Government of 17 July 2013. The Dutch Government submitted its combined 19th, 20th and 21st periodic report to the CERD Committee. This report covers the period from April 2010 through April 2012. The Institute in this submission covers a selection of developments over the period up to the date of publication (June 2015). In its submission the Institute addresses various themes discussed in the CERD Committee's concluding observations. In addition, the Institute addresses a number of issues it observed in the performance of its own activities over the period covered by the report and the past few years. Where relevant, a suggestion for a question has been included to the purpose of the preparation of the Committee member of the dialogue with the Dutch Government. This submission does not provide information on all the issues mentioned in the concluding observations. This does not imply that the Institute is of the opinion that the topics it does not comment on are sufficiently implemented by the Netherlands or do not merit further discussion by the Committee.

About the Institute

The Institute protects, monitors and explains human rights in the Netherlands through research, advice and the provision of information. The Institute delivers opinions (rulings) on individual discrimination complaints, including on the grounds of 'race' and 'religion' (see *V. Annex*). The Institute annually reports on the situation in the Netherlands in relation to human rights. It promotes the ratification and implementation of, and compliance with, the Conventions relating to the subject of human rights, effecting this by, *inter alia*, reporting to the monitoring committees to these Conventions, including the CERD Committee. The Netherlands Institute for Human Rights is the National Human Rights Institution of the Netherlands. It has held A status since May 2014.

III. General introduction

1. Many reports on (experienced) racial discrimination

Various reports on discrimination were published over the period covered by this report. The Minister of the Interior and Kingdom Relations, also acting on the behalf of the Minister of Education, Culture and Science and the Minister of Foreign Affairs, submits an annual report on discrimination to the Dutch Parliament. The Annex to the 2015 Progress report on discrimination when providing the figures on cases received by the Public Prosecution Service notes that, in 2013, as in previous years, the share of cases involving the discrimination ground of race is the highest of all discrimination grounds listed, amounting to 45% of all cases. 14% of these cases concerns discrimination against persons of African origin ('anti blacks'). Discrimination on the grounds of race has also been among the forms of discrimination most commonly reported to the Institute over the past few years. The number of requests to issue an opinion on cases of discrimination on the grounds of race received by the Institute has sharply increased since 2012. In 2012, 14% of all requests (of the 634 requests in total) related to this discrimination ground, rising to 18% (of the 498 requests in total) in 2013, and 24% (of the 463 requests in total) in 2014. The majority of requests submitted in 2014 concerned discrimination on the grounds of

race (see V. Annex for figures on discrimination). Strikingly, the amount of cases of (racial) discrimination in which the Public Prosecution Service has decided to prosecute has actually decreased.

A study by the Netherlands Institute for Social Research (SCP) has shown that the economic crisis that has been going on since 2008 has hit ethnic minorities disproportionately hard. The media, referring to 2015 Eurostat/OECD figures, showed that unemployment is relatively high among these groups. Various empirical studies, including 'Do employers prefer Mark over Mohammed?' (Liever Mark dan Mohammed, SCP, 2010) show that discrimination is an additional cause for this high unemployment figure: in case of equal qualifications, employers prefer a candidate from a majority group.

The study 'Experienced discrimination in the Netherlands' ('Ervaren discriminatie in Nederland', SCP, 2014) analyses the discrimination in the public area, in contacts with public bodies and agencies, and in education, as perceived by various ethnic minorities. In 2013, well over half of all persons with a Surinam or Antillean background experienced discrimination at least once, and the same applied to a full two thirds of all Dutch nationals of Turkish and Moroccan origin. In addition, the vast majority of individuals belonging to these latter two groups are Muslims and also experience discrimination on the grounds of their religion. In practice, these two forms of discrimination are closely intertwined.

In 2013, almost half of all migrant workers from Central and Eastern Europe experienced discrimination. The 'Settling in in the Netherlands' report ('Langer in Nederland', SCP, 2015) shows that migrant workers from Bulgaria and Poland, in addition to receiving unequal pay, also experienced other forms of discrimination. A study performed by Movisie ('Monitor Inclusie:nulmeting', 2013), assigned by of the Ministry of Social Affairs, showed that it is at times difficult for Roma and Sinti to get an internship post or a job and that, in addition to the lack of an education and the limited mastery of Dutch, discrimination is cause thereof. In addition, Roma and Sinti suffer from stigmatisation.

More attention to racial discrimination

A positive development is that social and political awareness of racial discrimination, including discrimination on the grounds of colour, and the acknowledgement that such discrimination occurs in the Netherlands, has increased. The Government's attitude towards, and approach to, racial discrimination seems to change. The government no longer denies that racial discrimination occurs on more than an incidental basis. In its 2015 Progress report on discrimination, the Government acknowledges, for instance, that 'discrimination, racism and unequal treatment occurs too often' and that 'combating discrimination is high on the political agenda'. The government is paying far more attention to racial discrimination, including discrimination on the grounds of colour, than it used to, as is also evidenced by its 2014 Labour discrimination action plan, in which it announced to implement multiple actions and plans, some of which specifically target non-Western migrants.

2. Too small a part played by the government

In its report to the CERD Committee, the Dutch Government notes that it attaches great importance to each citizen having equal opportunities for personal development and success, and that it strives to find the right balance between the responsibilities of the citizens and of the State (*Concluding observation 4*). As the Government itself states in its report to the CERD Committee, its policy is focused on citizen self-reliance.

The Government strives to establish a so-called participation society, providing fewer social services and expecting citizens to support one another. The Central Government assumes citizens to be highly self-reliant. A concomitant risk of this policy is that persons in a vulnerable situation receive insufficient attention and support, leading to social exclusion and incomplete enjoyment of rights. The Institute shares the Committee's concerns on the appropriate balance between the responsibilities of the citizens and the State. As regards the integration of migrants, for instance, too much of this responsibility rests with the migrant groups.

Various initiatives are aimed at combating racial discrimination and promoting the equal opportunities of migrant groups. However, the obligations arising from the CERD demand greater government involvement in the concretisation and implementation of its plans. The government places too much of the responsibility for integration and labour market positioning on the side of migrants and (potential) discrimination victims, for instance.

In addition to the Central Government playing too small a part in combating and preventing discrimination, the part it does play is not always clear-cut. The government should, for instance, be more aware of the fact that its own policies can actually contribute to discrimination and the stigmatisation of migrants, as is evidenced by various recommendations and reports on government policy and legislation. Examples include the cultural requirements placed on holding Dutch citizenship ('internalisation' and 'promotion' of 'Dutch values'), the municipal 'phase-out policy' with respect to traveller sites, an increasingly strict municipal integration policy, stricter rules and a raised threshold with respect to family reunification, and overly limited reception facilities for asylum seekers who have lost all rights to appeal their residency status (undocumented persons). Even though the discriminating and stigmatising effects on migrants of these policies, laws and regulations are unintentional, they were not unforeseen. They need to be eliminated as soon as possible.

The Institute advises the Committee to ask the Dutch Government:

What does the Central Government intend to do to come to a more consistent anti-discrimination policy that pays more attention to the possibly stereotyping and stigmatising effects of the (proposed) government policy?

IV. Comments of the Institute

1. National policy and infrastructure to prevent and eliminate racial discrimination (art. 2 CERD)

1.1. Anti-discrimination policy does not always sufficiently address the problems of all groups

The CERD Committee (in *concluding observation 6*) expresses its fear that the Central Government's generic anti-discrimination policy may result in indirect discrimination and insufficient attention being paid to the needs and concerns of groups which may be susceptible to discrimination. In its report to the CERD Committee, the Dutch Government explained its choices. The basic principle is that the generic policy is to be effective; should it turn out to be insufficiently effective, targeted measures are to be implemented. However, this does not to a sufficient degree happen in practice.

The Government's 2010 Action Programme to Combat Discrimination and its supplementary measures and Progress reports contain this generic policy. The aim is to combat *all* forms of discrimination. While the 2012 and 2013 Progress reports did provide attention to the topics of discrimination against non-Western ethnic minorities in the labour market and to the discrimination practised by catering establishments, as experienced by many youths of non-Dutch origin, the attention to discrimination was otherwise limited to anti-Semitism, Islamophobia and discrimination against LGBTIs.

The Central Government's acknowledgement of, and attention provided to, racial discrimination has significantly increased since 2014. The annual Progress report on discrimination shows that the Central Government is aware of the fact that discrimination on the grounds of race/origin is the most commonly reported form of discrimination. The Central Government over 2014 and 2015 presented a wealth of measures aimed at more effectively combating discrimination on all grounds. These measures include a long-term awareness-raising campaign that is aimed at increasing awareness and at having more people submitting complaints and filing police reports on discrimination. In addition, a number of measures and plans targeting specific groups, including non-Western migrants, have been announced. These measures relate to promoting diversity and providing migrants with the proper tools, and hardly, if at all, to combating discrimination. A reassessment (benchmarking) of the 2010 Action Plan to Combat Discrimination is expected to be performed in 2015. The National Action Plan on Human Rights (2013) designates discrimination as a priority topic. The plan pays attention to discrimination against non-Western migrants in the labour market and ethnic profiling by the police. However, the development of a plethora of plans and measures to promote equal opportunities of migrants since 2014, and the topic of racial discrimination being on the political agenda, does not mean that there are no concerns or points for improvement, including with respect to topics addressed by the government.

1.2. Concerns and points for improvement

Need for better coordination and coherent evaluation of the implementation

The policy documents referred to contain many plans and policy intentions, which need to be monitored and evaluated to assess their actual effectiveness. An initial - partial - evaluation of the Action Plan to Combat Discrimination in the Labour Market is expected to be performed in mid 2015. A clear, overarching vision connecting the various activities planned is lacking. There is a need for a more coordinated approach to tackle racial discrimination over all fields, and for the more coordinated evaluation of its effectiveness.

Need for a better follow-up to reports of discrimination

The 2010 Action Programme and 2011 Progress report were strongly focused on the reporting and registration of complaints about discrimination, including reporting to the police and criminal prosecution, but also submitting complaints to the Anti-Discrimination Services (ADSs) and the Netherlands Institute for Human Rights. The part of the National Action Plan on Human Rights focusing on discrimination and the long-term public awareness campaign set to be started in the summer of 2015 are aimed at establishing easily approachable and properly functioning reporting centres and having more people reporting complaints about discrimination, such in addition to the goal of increasing awareness of and knowledge about discrimination among the general public.

In its report to the CERD Committee, the Central Government states to provide additional attention to discrimination within the police and Public Prosecution Service (13. Discrimination and racism at work, *concluding observations* 12 and 22). For a cause of

concern is that only a limited number of complaints submitted to the ADSs and reports of (racial) discrimination filed with the police have actually led to the Public Prosecution Service (PPS) starting up criminal proceedings. The number of cases in which criminal proceedings were started was actually lower in 2013 than in 2012, while more reports were filed. The Public Prosecution Service only prosecutes in a very limited number of cases of racial discrimination. According to the figures available in late 2014, of the 3,600 incidents reported to the police, only 83 led to prosecution by the PPS. The Minister of the Interior and Kingdom Relations identifies the fact that the 'reports' to the police do not properly correspond to the 'punishable offences' required by the PPS as the root cause of this issue. The PPS requires there to be proof of a case and therefore exercises caution in starting up criminal proceedings.

Other problems are that reporting to the police is often not a simple affair and that the police sometimes give people the brush-off. Calls for increased reporting and registration ring hollow if hardly anything is done in response to complaints and reports. This, in turn, corrodes the confidence that reporting is worthwhile.

The Institute advises the Committee to ask the Dutch Government:

What concrete measures will the government implement to remove the various causes leading to the very limited amount of cases of discrimination resulting in criminal proceedings being started up?

Need for more attention to prevention, also outside of education

Government policy is mainly aimed at combating discrimination that has already taken place. This is evidenced by the focus on submitting complaints, reporting to the police with a view to criminal prosecution, and the government terminating agreements with employers convicted of discrimination and in the tendering stage. Preventive measures, in particular those aimed at becoming aware of stereotypes and at preventing stigmatisation, are far less developed or are implemented to only a limited degree. The 2010 Action Programme and 2011 Progress report, for instance, consider prevention to be primarily an issue of education and the provision of information in school. Though the 2013 awareness raising campaign, and the long-term public awareness campaign set to be launched in 2015, have a preventive effect, there is a pressing need for a significant increase of attention to prevention, the provision of information and the promotion of expertise, also outside of the setting of education and schools. The Government should be aware that not all discrimination is explicit and intentional. Subtle discrimination, for instance, usually stems from stereotyping and is often implicit and unintentional. Training aimed at becoming aware of the effects of ethnic stereotyping - by others and by one's self - on the perception and assessment by members of professions like the police and the judiciary, for instance, may have an important preventive function (*see 4. Combating stereotypes and prejudices*).

The Institute advises the Committee to ask:

Does the Central Government intend to develop initiatives aimed at preventing discrimination in addition to those related to education and the provision of information?

Does the Central Government intend to promote certain professions gaining more expertise on the effects of stereotyping?

Insufficient attention to information and prevention on the local level

The Municipal Anti-Discrimination Services Act requires municipalities to allow their citizens access to an Anti-Discrimination Service (ADS). The Act does not require municipalities to implement preventive measures or to provide information. Municipalities are free to decide to make funds available for these tasks to complement their statutory tasks (providing assistance to citizens and registering complaints). The [evaluation of the Act](#) shows that some municipalities spend very little money on these complementary tasks, leading to many ADSs hardly being able to provide information. The Central Government does not intervene, as it does not want to limit municipal autonomy in this regard and wants to allow for local diversity. However, the CERD requires more of the Central Government, as it bears final responsibility for compliance with the obligations arising from the Convention.

From its own work, as well, the Institute notices that human rights policies on the local level can be very effective. An integral approach providing sufficient attention to prevention and the provision of information promotes the effectiveness of (local) anti-discrimination policies. Municipalities should therefore enable the ADSs to perform informative and preventive tasks. The evaluation of the Act has resulted in the Central Government promising to lay down quality criteria for the Anti-Discrimination Services in cooperation with these Services. This is to lead to the Anti-Discrimination Services not only being able to process the complaints, but also to perform other tasks required to prevent and combat discrimination. In response to Parliamentary Questions, the Minister of the Interior and Kingdom Relations in 2015 announced that the specific tasks of the ADSs on the municipal level will be the subject of further investigation. The Institute urges the Central Government to take its (final) responsibility and develop alternative measures should it appear that the measures implemented are insufficiently effective or that municipalities opt not to provide funding for informative tasks.

The Institute advises the Committee to ask the Dutch Government:

What measures will the Central Government take to ensure that municipalities pursue a comprehensive anti-discrimination policy, providing sufficient attention to the topics of information and prevention?

1.3. Racism, xenophobia in the public (media) debate

The CERD Committee expressed its concern about the tone of the political debate and urges for the implementation of more effective measures to counter racist, xenophobic and intolerant speech in the public debate and the media. It argues that the government should encourage a positive climate of political dialogue (*concluding observation 8*). In its report to the CERD Committee, the government responds by promising that "the authorities will act harshly and resolutely to counter unacceptable expressions, like anti-Semitism, homophobia and physical violence".

Anti-Semitic expressions

All research and monitoring institutions have detected a sharp increase in reports of anti-Semitism starting in 2014. The [2014 Monitor anti-Semitic incidents](#) of the Centre for Information and Documentation on Israel (CIDI) recorded an increase of 71% in one year: the 2013 figure of 100 reported incidents in 2013 rose to 171 in 2014. This included reports of pro-Gaza demonstrations in the Schilderswijk district of The Hague, during which anti-Semitic slogans were chanted and IS flags were displayed. People who are recognisably Jewish, for instance, because they wear a 'kippah' or 'yarmulke', were particularly often the target of direct confrontations: reports of verbal abuse or being harassed on the street

increased by 90% (40 incidents in 2014 as compared to 21 in 2013). The number of incidents featuring physical violence was doubled (from 3 to 6). Anti-Semitic chants are commonplace in football stadiums.

The Central Government has been pursuing an active policy to combat anti-Semitic expressions for years now and regularly publicly disapproves of anti-Semitic expressions and incidents. In addition, the Central Government has recently announced it will start up a number of initiatives to combat anti-Semitism, including conducting research into trigger factors of anti-Semitism (including anti-Semitic chanting in football stadiums). This could very well pave the way for a more structural approach.

Islamophobic expressions and discrimination against Muslims

Residents of Turkish and Moroccan origin are often Muslims (825,000 [5%] of the Dutch population is Muslim, CBS 2009). Like many other non-Western migrants in the Netherlands who are professing Muslims, they experience both discrimination on the grounds of race and discrimination on the grounds of religion. This group reported many incidents of discrimination over 2010-2014, and a further increase of reports was recorded in various sources for the period since then. The reports include incidents of discriminating and Islamophobic speech by politicians, in the media and social media, verbal abuse on the street, hurtful comments in class, threats and violence, and forcible removal of the hijab in public spaces, as registered in the 2014 [Muslim Discrimination Monitor](#).

A [study](#) published in 2013 indicated that about half of the Dutch population have a negative opinion of Muslims and that 61-71% of all teachers in secondary education report pupils discriminating against and making hurtful remarks towards Muslims. One of the causes reported is the negative media coverage of Muslims.

Insufficient measures

The Central Government has been paying more attention to the topic of discrimination against Muslims since 2014. The Ministry of Social Affairs organised its first round-table meeting on Islamophobia and the discrimination against Muslims on 9 July 2014, for instance. One of the conclusions reached during the meeting was that prejudice against, fear of, aversion to and a hostile attitude towards Islam and Muslims is a real problem. The Minister of Social Affairs and Employment stated to intend to take a strong stand against the discrimination against Muslims and that the topic was placed on the political agenda. A number of measures was announced, including conducting a study into the specific character of discrimination against Muslims and into the factors that could be a direct cause of discriminatory expressions.

Islamophobia and the discrimination against Muslims is only to a limited extent addressed by the measures and studies announced. The Central Government does not often enough condemn discriminatory expressions with respect to ethnic groups adhering to Islam in the political debate and in the media, and does not always act unanimously even when doing so. In addition, the Central Government pays too little attention to the effects its own political discourse has on the political climate. Security measures implemented to protect the population against violence and terrorism are to be in conformity with the obligations arising from Conventions on human rights. In its Advisory opinion (on the Action Programme on the Integral Approach to Jihadism and the *Interim Counterterrorism (Administrative Measures Bill)*), the Institute noted that the policy could lead to indirect discrimination of Muslims and could result in stigmatisation of migrants adhering to Islam. While the measures were proposed to counter a small group of violent, radical Muslims, they could easily lead to an entire population group being put in a bad light (5% of the Dutch population is Muslim, CBS, 2009).

The wide-spread stereotype of the 'untrustworthy Muslim', confirmed in the political discussion and taken over by the media, may result in the discriminatory treatment of migrants in the labour market and even serve as validation of such treatment. That such is the case in actual practice is shown by a case brought before the Institute. The Municipality of Amsterdam did not apply a Muslim sporting a beard for a rehabilitation course in the security sector. He was told that people would be 'on their guard' because of his appearance and 'would not trust' him. In its opinion (2014-39), the Institute held the view that the utterances of the municipal employees were offensive, as they were made in relation to the applicant's religion and have a negative connotation. The Institute is of the opinion that the municipality had discriminated against the man because its employees had uttered discriminatory remarks.

The Central Government should therefore refrain from rhetoric and policies that could serve to validate discrimination in society and by the media and could actually hinder the political dialogue it strives to promote.

The Institute advises the Committee to ask:

How does the government, when implementing and realising its plans, intend to provide shape to its responsibility of combating discrimination on the grounds of race (in conjunction with religion), held in connection with its duty to protect human rights?

What concrete intentions does the Central Government have to implement an integral approach to combat discrimination on the grounds of race (ethnic origin, colour) in conjunction with religion, providing attention to both prevention and counteraction?

1.4. Political intolerance

In its report, the Central Government responds to the concerns of the CERD Committee with respect to the manifestations of intolerance and the general tone of the political discourse (*Concluding observation 8*), as well as on the recommendation by the Committee to take efforts to combat racist speech by political parties (*Concluding observation 9*). In its response, the State party defends the importance of open debate and freedom of expression, which freedom particularly extensively accrues to politicians expressing themselves in the context of the public debate. At the same time, the Central Government notes that there is no unlimited freedom of expression and that "the authorities will act harshly and resolutely to counter unacceptable expressions".

In the past few years, a number of politicians have regularly talked about migrant groups in discriminatory terms, while policy proposals and sometimes even private member's bills containing discriminatory aspects were submitted. One example thereof would be the proposed 'Dutch Nationals from Aruba, Curaçao and Sint Maarten taking up Residency in the Netherlands (Regulations) Act' introduced as a private member's bill by the conservative liberal party VVD. The bill proposed to implement requirements to be met by Dutch nationals from the Caribbean part of the Netherlands intending to take up residence in the European part of the Netherlands, so as to deter entry of disadvantaged persons and criminals. In its advisory opinion on this private member's bill, the Institute phrased multiple points of criticism. It makes a distinction between Dutch nationals from Aruba, Curaçao and Sint Maarten on the one hand, and Dutch nationals from the European part of the Netherlands on the other. This concerns discrimination on the grounds of race, for which no justification exists. The Institute noted that the Government's statement in its explanation to the bill (*Memorie van Toelichting*) means that migrants with a Muslim background are affected in particular by these anti-jihad measures.

The Institute also concluded that the private member's bill was stigmatising and prejudicial. The bill was introduced to the House of Representatives a considerable time ago - on 12 June 2013 - but has yet to be put on its agenda. Due to the debate the bill caused, the Council of State has provided - and that is unique - information on it. Various members of parliament have criticised the bill during this discussion, but the Central Government as a whole did not take a unanimously critical or unfavourable position.

Turning point?

What is notable is that almost all politicians, including members of the Party for Freedom (PVV), immediately distanced themselves from the remarks made by that party's leader, Mr Geert Wilders, during the March 2014 municipal council elections. Mr Wilders at that instance called on his supporters to chant "fewer, fewer Moroccans". This action was explicitly condemned by the entire Central Government, which theretofore had always emphasised the extended freedom of expression accruing to politicians in the public debate. These remarks by Mr Wilders led to well over 6,400 reports of discrimination being filed. In December 2014, the Public Prosecution Service decided to prosecute the affair, on the suspicion of defamation of a group of people on the grounds of race and of inciting discrimination and hatred. The Supreme Court in a recent judgment on a case against a different politician ruled that the case not only concerned expressions inciting hatred, violence or discrimination, but also expressions inciting *intolerance*, a more expansive definition. The proceedings against Mr Wilders are yet to commence.

The Institute advises the Committee to ask:

What policy will the Central Government develop to combat hate speech in general and the role of politicians in particular?

The 'Black Pete debate' (2011-2014)

The social debate on the racist nature of the 'Black Pete' persona, that was started in 2011, has escalated in the past few years. The groups of people who believe the traditional 'Black Pete' persona is racist are opposed by groups of native Dutch people who fiercely defend the persona. They believe 'Black Pete' is a symbol of a 'quintessentially Dutch cultural tradition' that ought to be protected. The critics of 'Black Pete' were the target of many racist expressions in the (social) media. Some time later, black players in the Dutch national football team were called 'monkeys' and 'Black Petes' on Facebook.

The courts ruled on the legality of the traditional 'Black Pete' persona in the public area on multiple occasions. One case concerned the issue of whether the mayor of Amsterdam should have rejected the application for a permit for the St Nicholas entry parade due to the presence of 'Black Petes' in the parade. The District Court of Amsterdam pronouncing judgment in the first instance ruled that the negative stereotyping of 'black persons' resulted in interference in private and family life, as protected by Article 8 of the ECHR. The Council of State in the appeals procedure ruled that the mayor may only test on conformity with the requirements of public order and safety. The mayor is not competent to judge whether the 'Black Pete' persona has a discriminatory effect. Such an assessment of the substantive part of the event is not part of his duties. A case against the organisers of a St Nicholas entry parade to be brought before the civil court, which is competent to test the substance of the event to determine whether it constitutes an unlawful act, is being prepared in 2015. The Institute, too, gave its opinion on the presence of the 'Black Pete' persona in the context of feast of St Nicholas celebrations in schools (*see 2.2. Education*).

Role of the Dutch government

In contrast to some local governments, the Central Government at all times kept its distance from the debate. It steered consciously clear of the debate as to whether the 'Black Pete' persona constitutes a 'racist stereotype', as it does not believe it has a role to play in this regard, believing the matter to be a question society is to decide on by itself. The Central Government did call for the debate to be respectful. The Ministry of Social Affairs and Employment (SZW) organised a Round Table meeting with all the parties involved (municipalities of Amsterdam and Gouda, NGO's, various anti- and pro-Black Pete organisations).

However, the Central Government is required to play a more proactive role in this connection. For the 'Black Pete' debate is not an isolated concern, and a broader debate on racial discrimination and ethnic stereotyping needs to be started up. The CERD obliges the State party to actively combat discrimination and ethnic stereotyping. The Central Government's 'wait-and-see' approach to the 'Black Pete' debate is inconsistent with this obligation.

The Institute advises the Committee to ask:

What activities will the Central Government perform to properly channel the annually recurring 'Black Pete' debate?

What will the Central Government do to prevent and counter racist and discriminating speech made in this connection in the (media) debate?

1.5. Immigrants in society

Generic policy with respect to immigration and integration insufficient

The CERD Committee expressed its concerns about the fact that the current policy on integration has effectively shifted the primary responsibility for integration from the State to immigrant communities (*Concluding observation 4*). It fears this will lead to a lack of attention and indirect discrimination.

No integration policy - aimed at providing immigrants with the possibilities to fully participate in Dutch society - is currently in place. As of 2013, migrants are themselves responsible for integrating. Failing the integration examination is sanctionable. The municipalities no longer provide (financial) support. This is in conformity with the generic (general) Government policy on combating educational and labour market deprivation and being disadvantaged in the access to culture and sports. The basic principle of this policy is the increased personal responsibility of citizens to participate in society.

However, many of the instances of disadvantage, like the disproportionate level of unemployment amongst migrant groups, especially young people from these groups, require a more targeted policy. Such policy may be of a supporting nature, and can, for instance, concern offering assistance in finding an internship post or a job. [Inventarising research](#) (SCP, 'Aan het werk vanuit een bijstands- of werkloosheidsuitkering', 2014) into the policies pursued by six municipalities to have non-Western migrants receiving benefits find employment shows that an individual and pragmatic approach most often leads to success. It was found that some measures, including early assistance with finding work and after-care upon having found employment, were particularly favourable to non-Western migrants. It is therefore important that municipalities continue to be able to provide custom assistance for as long as the labour market position of migrants lags behind that of native Dutch people. Pursuing a general policy is clearly not sufficient to remove all forms of disadvantage. A broad willingness to allow the implementation of custom solutions is

necessary. Such allowance does not sufficiently exist in practice. Ignorance about the effects and effectiveness of general policies might play a part in this regard. The SCP in 2014 conducted an inventarising (exploratory) investigation into this matter amongst a number of municipalities.

Special attention to and custom solutions for Roma

The Netherlands do not pursue a special policy to improve the disadvantaged position of Roma and Sinti in the country. The Government, in the [National Roma Integration Strategy](#) drawn up by the Netherlands on the request of the European Commission (EC), refers to the generic policies on, *inter alia*, combating unemployment, which are also accessible to Roma and Sinti. This contrasts sharply to the specific attention the Government provides to Roma and Sinti in connection with so-called behaviour transgressing moral standards (criminality, public nuisance, exploitation of children) and 'multi-problem families'.

The persistent disadvantaged situation amongst Roma and Sinti as concerns education, health and employment was mapped in the [Inclusion Baseline Monitor](#) ('Monitor Inclusie: nulmeting', Movisie, 2013) compiled on the instructions of the Central Government. The Monitor shows that it is at times difficult for Roma and Sinti to get an internship post or a job. This is partly due to discrimination, but also to the lack of an education and limited mastery of Dutch. In addition, a number of specific problems, like a high school drop-out rate, stigmatisation and statelessness, apply to Roma and Sinti.

The Movisie Monitor mentioned above shows that providing specific attention to the problems faced by the Roma can, conditionally, improve their position. Constructive cooperation with the Roma and Sinti, or with intermediary services, is of particular importance. The odds of success increase when the government stops talking about these groups and starts talking with representatives of them. The question remains, however, how the government will structurally organise such discussions, as it has placed the responsibility thereof with minority organisations (*see below, Consulting community organisations*). In addition, projects need to run for multiple years, as effecting change takes time.

Pursuing a generic policy is insufficiently effective in tackling the specific problems faced by Roma and Sinti. There is a need for specific measures tailored to their situation. Whenever necessary, the Central Government is to promote the implementation of such measures. Such measures include measures to create more equal opportunities in the labour market, including measures to combat school truancy, but also measures that combat discrimination and tackle the problems arising from statelessness, including problems concerning residency status.

Migrants lacking residence documents (art. 5 e)

The Government does not want to provide accommodation to undocumented migrants. The distinction it makes between people with and without a residence permit is worrisome. In its Annual Report, the Institute refers to the three UN special reporters who, in December 2014, were critical of the fact that the Dutch government did not provide the mandatory minimum support - 'bed, bath and bread' - to undocumented migrants and to the ruling of the European Committee of Social Rights, which found that the Netherlands in so doing is violating the fundamental rights of persons without a valid residence permit. After the Central Appeals Court ruled that municipalities were provisionally obliged to provide undocumented aliens with accommodation, shower facilities and food, and the District Court of The Hague pronounced the same judgment, the Government finally decided to offer such minimum accommodation in a small number of larger cities. The fact that the

Central Government has placed conditions - cooperation in the departure process - on being granted access to these minimum accommodation and assistance services is not in conformity with its obligations arising from the international covenants on human rights.

The Institute advises the Committee to ask:

How does the government ensure that pursuing a general policy is not detrimental to the provision of attention to the specific problems faced by certain groups of people?

How does the government ensure that it provides accommodation to all people on its territory unable to provide for themselves, irrespective of their residency status?

Consulting community organisations

The Central Government has stopped providing subsidies to minority organisations as of 1 January 2015. The National Ethnic Minorities Consultative Committee (LOM), by which the government discussed (proposed) policy with representatives of minority groups, was also disbanded on that date. The rationale behind this decision is that the Government believes the minority communities to be themselves responsible for representing their interests. The pertinent question is whether the government has a sufficient overview of the problems that used to be signalled by the representatives of those groups and whether it receives a sufficient amount of information on the effects of its generic policy on vulnerable groups that will not, or cannot, make themselves easily heard. It is necessary for the government to talk *with* the groups concerned, and not exclusively *about* them. The Institute is receiving signals that this is not yet the case for all relevant groups.

The Institute advises the Committee to ask:

How does the Central Government ensure that it has a sufficient amount of information available to effectively tackle the specific problems minority groups are faced with?

And how does the Central Government ensure that representatives of the various groups are heard and involved in the decision-making process regarding and the pursuit of policy on affairs that concern them?

1.6. Integration policy

The Civic Integration (Preparation Abroad) Act (Wet Inburgering Buitenland, 'Wib') contains the obligation to pass a basic civic integration examination prior to arriving in the Netherlands. Once in the Netherlands, aliens desiring to remain in the Netherlands for a longer period of time are to pass an (or another) civic integration examination.

Aliens who failed their basic civic integration examination taken abroad are not allowed to come to the Netherlands. Failing the civic integration examination taken in the Netherlands may, in the end, lead to the alien's residence permit being revoked. Citizens of a number of countries (Australia, Canada, Japan, Monaco, New Zealand, South Korea, Switzerland, the United States of America, and the Vatican City State) are exempt from the obligation to pass the basic civic integration examination abroad prior to arriving in the Netherlands. They do need to pass the civic integration examination while in the Netherlands. Persons who are unable to pass the examination due to a physical or mental impairment are also exempt.

Integration abroad and family reunification

The CERD Committee has expressed its concern (*concluding observations, par. 5*) that the Civic Integration (Preparation Abroad) Act ('Wib') results in discrimination on the basis of nationality, as the Act distinguishes between Western and non-Western immigrants. For the obligation to pass the basic integration examination abroad only applies to migrants from certain countries.

The regulations and the practice of the Civic Integration (Preparation Abroad) Act (Wib) were addressed in a [study](#) by the Institute on Dutch regulations and practices on family reunification, testing them for conformity with the European Family Reunification Directive. The purpose of this EU Directive is to determine the conditions that make possible family reunification of third-country nationals (any person who is not a citizen of the EU) as a means for better integration. By implementing the Civic Integration (Preparation Abroad) Act (Wib), the Dutch Government aims to achieve a purpose other than the aforementioned, to wit, preventing migration of disadvantaged migrants, or so the Minister of Social Affairs and Employment acknowledged. As the integration examination has come to serve as a selection tool, it is detrimental to achieving the actual purpose of the EU Directive. The Directive also provides that the duty of sitting an integration examination may not impose a performance obligation, as is currently the case, but only a best-efforts obligation. The Council of State on 6 June 2014 referred questions to the Court of Justice of the European Union for a preliminary ruling. The Advocate General presented his [conclusion](#) on 19 March 2015. Judgment by the Court is still pending.

The study further showed that the assessment of an application for family reunification does not take all individual circumstances into account, though such is mandatory under the European Family Reunification Directive. It also became apparent from the Institute's study that exceptions to the civic integration requirement are implemented to the least possible extent by the Central Government. Reliance on the hardship clause is hardly ever successful: only demonstrated, permanent physical and mental impairment result in exemptions being granted, for instance. Persons who are unable to take the civic integration examination for a longer term, but are not permanently impaired, are not eligible for family reunification for the entirety of that term. This strict policy disproportionately affects especially vulnerable groups like illiterate persons, persons using another alphabet and women with little education.

The 2009 [evaluation](#) of the Civic Integration Abroad Act (Wib) showed that the basic integration examination provides only a very limited contribution to integration, especially as concerns the integration of groups in a vulnerable position, like illiterates and women with little education. The importance of this contribution does not outweigh the interests of the family members affected, who need to put their desire to live together on hold.

The Institute concluded that the right to the protection of family life is insufficiently guaranteed.

The Institute advises the Committee to ask:

How does the Government ensure that the family reunification policy meets the international standards on the right to the protection of family life?

What measures does the Government implement to prevent individuals in a vulnerable positions, including illiterates and women with little education, being hit disproportionately hard by the requirement of civic integration abroad due to an overly restrictive application of the hardship clause?

Civic integration in the Netherlands

Investing in integration is important. It serves both the migrant and the Dutch State. It contributes to furthering the full participation in Dutch society, to gaining access to the labour market and to preventing people from ending up in poverty. Once they have arrived in the Netherlands, newcomers (except for EU, Turkish and Swiss nationals) are to integrate and pass an integration examination at their own expense. This means they start off with a heavy financial burden: a civic integration course costs 6,000 euros on average. Migrants may take out an inexpensive loan with the State for this purpose. This debt is only waived for refugees, provided they pass the examination.

In its previous submission, the CERD Committee expressed its concern that Dutch integration policy had shifted the primary responsibility for integration from the government to the migrants. The Institute shares this concern and finds that it has not been remedied since the Committee laid down its concluding observations. The Central Government puts the responsibility for organising and the burden of financing the costs of integration mainly on the migrants themselves. Even though the Central Government acknowledges that integration is a 'two-way street', it does not take its own part of the responsibility.

The Institute advises the Committee to ask:

**Does the government acknowledge its own interest in having migrants integrate?
If so, what measures does the government implement to ensure that migrants have a real chance of successfully integrating in Dutch society?**

Participation statement

Municipalities in 2014 started to implement the so-called 'participation statement' ('Participatieverklaring') for newcomers to the Netherlands. This statement informs newcomers of their rights and obligations and of the fundamental values of Dutch society. A pilot is currently under way, which has the migrant state to promote the values of the Dutch State.

The Participation Statement forces newcomers to 'promote and internalise Dutch values'. There are various objections to this obligation. The rationale behind this obligation is that integration can only be successful if built upon 'shared core values'. Quite apart from the question what those 'Dutch' core values are, exactly, requiring migrants to internalise those values is unacceptable. By virtue of the freedom of thought, conscience and religion, persons may only be required to be aware of or having respect for those values. The Government's explanation of this obligation also suggests that migrants in the Netherlands have values that are fundamentally different from those of native Dutch people and that do not fit into Dutch society. In so doing, the Government fails to recognise the diversity existing amongst migrants and contributes to the stereotypical image of migrants. It also fails to appreciate the diversity existing amongst native Dutch persons.

The Institute advises the Committee to ask:

How does the Government believe the participation statement relates to the freedom of thought, conscience and religion?

Which measures does the Government implement to prevent that the 'participation statement' itself leads to stereotyping migrants?

2. Economic, social and cultural rights, and nondiscrimination (art. 5 CERD)

2.1. Labour market Discrimination (art. 5 e (i))

Discrimination on the grounds of race, nationality and religion is a frequent occurrence in the context of access to the labour market.

The CERD Committee expresses its concern (in *Concluding observation 12 and 22*) about the rates of unemployed amongst ethnic minorities, which is significantly higher than amongst other groups, and urges that more concrete and effective measures are implemented to eliminate discrimination in access to employment, *inter alia*, by way of awareness raising campaigns. In its response, the Central Government states that it pursues a generic (compensatory) policy covering all areas, including employment, and that, should this policy fail, it will implement 'targeted' measures to improve the situation.

The SCP's Annual Integration Report 2013 (Jaarrapport Integratie 2013) shows that, in 2012, unemployment amongst Dutch citizen of non-Western origin was three times as high as amongst native Dutch people (19% and 7%, respectively). Youth unemployment is also very high amongst non-Western immigrants (aged 15-24). The SCP report '[Social distinction in The Netherlands](#)' (Verschil in Nederland, 2014) shows that this figure has doubled over the past five years, from 15% to well over 30% in 2013. 13% of native Dutch young people were unemployed in 2013.

Eurostat/OECD figures published in 2015 show that the unemployment level is relatively high amongst ethnic minorities: according to this study, there is a 27.6% difference in labour participation between native Dutch people and ethnic minorities (77.1% and 49%, respectively, have a job). More recent studies conducted by, *inter alia*, Statistics Netherlands (CBS) into the differences in net labour participation amongst native Dutch people and ethnic minorities confirm that there are significant differences in labour participation.

Even when having completed higher education, non-Western migrants are less likely to land a job (SCP, 2014). The higher level of education and increased mastery of the language of second and third-generation migrants hardly seems to translate into better employment opportunities. Discrimination in the form of 'equal qualifications, unequal positions' applies even more strongly in times of economic crisis, the SCP finds. This image is confirmed by recent socio-scientific research by Blommaerts et al. into discrimination on on-line databases containing the résumés of job seekers. The odds of an employer clicking on the résumé of someone with an 'Arab' family name is found to be 50% lower than of that same employer clicking on the résumé of someone with a 'Dutch' family name. Discrimination on family name in recruitment and selection was also found in two 2015 opinions of the Institute. In both these two cases, a job seeker possessing the proper qualifications was rejected on the basis of their family name not sounding Dutch. When one of the two persons re-applied for the job, this time providing a Dutch-sounding family name, and the other asked a friend with a Dutch name to apply for the job, both applications did lead to the applicant being invited to an interview. The Institute held that both cases concerned discrimination on the grounds of race (Institute, opinion 2015-43 and opinion 2015-44).

This form of discrimination being a persistent phenomenon is evidenced by the fact that [empirical studies](#), including 'Do employers prefer Mark over Mohammed?' ('Liever Mark dan Mohammed', SCP 2010), already in 2010 showed that employers, based solely on prejudice, prefer a native Dutch candidate, irrespective of the qualifications being equal and résumés and motivations being identical. Both employers and intermediaries, like

employment agencies, are guilty of this behaviour. Many complaints submitted to the Anti-Discrimination Services (ADSs) and the Institute relate to labour market discrimination. In 2014, 26% of all complaints submitted to the [ADSs](#) concerned discrimination on the grounds of race, most of which are complaints concerning recruitment and selection.

The same applies to the opinions (rulings) issued by the Institute on the ground of race in the period between 2010 and 2014. Over half (39) of the 87 opinions on the ground of *race* issued relate to recruitment and selection (1 relates to appointment, 10 relate to termination of the employment relationship, 13 to the work conditions, and 25 relate to other areas, including discrimination in the workplace). The vast majority (7) of the opinions on the ground of *nationality* in employment-related cases relate to recruitment and selection, while 35 out of 87 opinions on the ground of *religion* in employment-related cases relate to recruitment and selection (followed by 7 opinions concerning termination of the employment relationship, 9 concerning work conditions and 6 concerning other areas, including discrimination in the workplace) (see V. *Annex, table 4*). Wearing a hijab, too, is often a reason not to award someone a job or internship post (refer to, for instance, opinions 2014-65, 2014-95 and 2014-67). [In this submission, the Institute once more reports](#) on companies refusing interns due to them wearing a hijab, even observing an increase of providers of internship posts doing so, including a number of government institutions. In the vast majority of these cases, the Institute holds that this constitutes discrimination on the grounds of religion.

The government's approach to tackling discrimination in the labour market

The Government by now acknowledges that labour market discrimination on the grounds of race and colour is not an incidental occurrence. It has repeatedly condemned the practice. The publication of the report '[Discrimination doesn't work!](#)' ('Discriminatie werkt niet!', Social and Economic Council of the Netherlands (SER), 2014), on the subject of discrimination in the labour market, gave rise to the launch of a number of actions, including by the Ministry of Social Affairs and Employment. In its Action Plan to Combat Discrimination in the Labour Market (2014), the Ministry announces a number of initiatives and measures to boost the fight against discrimination in the labour market. A long-term public awareness campaign aimed at increasing awareness and increasing the number of discrimination reports filed is set to start in 2015. In addition, a number of measures meant to improve the position of non-Western migrants was announced. Most of these measures relate to promoting diversity and providing support in gaining access to the labour market, for instance by organising an introductory meeting where employers can come into contact with ethnic minorities, or providing assistance in finding an internship post. These measures are not focused on combating discrimination and tackling the causes that give rise to discrimination. Creating equal opportunities is, of course, important and necessary, as is promoting diversity. However, to actually increase opportunities, providing persons of non-Western origin with a better starting position is insufficient: for this to happen, the Central Government is to increase its efforts in eliminating discrimination. It is, by virtue of the CERD, obliged to implement concrete measures to this effect.

A number of measures aimed at tackling discrimination has by now been implemented. For instance, the Working Conditions Act has recently been amended to allow for the public availability of the inspection data on discrimination in the workplace, and funds have been made available to set up special Labour Inspectorate unit tasked with combating discrimination in the workplace. Provisions have also been laid down allowing the government to terminate agreements concluded with employers convicted by the courts of discrimination and to exclude these employers from tender procedures, as well as allowing for the naming and shaming of the companies concerned. However, these last two measures are not expected to have much effect, including a preventive effect, as very few

discrimination cases result in prosecution by the Public Prosecution Service. As this amendment is of a very recent date, no data are available on its effectiveness.

The government has announced its ambition to combat discrimination, and a number of important steps have in the meantime been taken in the context of the benchmarking of the 2010 Discrimination action plan. Yet, further efforts are required in connection with tackling the structural causes of discrimination. The current focus on repressive policies should shift to preventive policies, as the former are meant to be an 'ultimum remedium'. The attention provided by the Central Government on raising awareness of discrimination and prejudices (stereotypes) requires further elaboration into concrete measures to be implemented in addition to a public awareness campaign. The Institute has pressed for the introduction of training sessions on stereotyping and discrimination for those governmental units responsible for the recruitment, selection and advancement of personnel. Such training may have a preventive effect.

The Institute advises the Committee to ask:

How will the Government provide shape to its ambition to combat both conscious and unconscious discrimination on the grounds of race and religion in the labour market, and how will it give substance to its exemplary role in this connection?

What concrete measures will the Government implement to effect that the Public Prosecution Service will more often prosecute cases of discrimination on the grounds of race, nationality and religion by employers and providers of internships?

What specific measures will the Government implement to supplement its generic anti-discrimination policy for the labour market, as it is proven that qualified migrants are still faced with discrimination in gaining access to employment and internship posts?

2.2. Education (art. 5 e (v))

Roma and Sinti children

Truancy by Roma and Sinti children is an oft-reported problem. The 2013 [Inclusion Baseline Monitor](#) ('Monitor Inclusie: nulmeting', Movisie) shows that progress is slowly being made in reducing truancy rates. Ever more children of Roma and Sinti origin go to school and complete their studies. Still, school drop-out rates are high from the age of 15 or 16, the rates being somewhat higher for girls than for boys. Roma and Sinti culture plays a role, but these children are sometimes discriminated against - even openly - when trying to find an internship post. The Monitor also shows that girls of Roma and Sinti origin seem to more often finish school in those few municipalities investing in providing more attention to the education of these children. The investments made by the Central Government in 2010 to promote education were [evaluated](#) in 2011. The results showed that notable progress was made in a short period of time. Many municipalities had become aware of the need to keep providing attention to the truancy rates of children of Roma and Sinti origin. The fact that no new budget was made available in this connection is, therefore, disheartening.

The Institute advises the Committee to ask:

What is the current state of affairs with respect to truancy amongst Roma and Sinti children? What measures are implemented by the Government to reduce truancy rates?

How does the Government ensure that Roma and Sinti children do not experience problems in landing the internship post they require to finish their education?

Discrimination-free school environment: Black Pete in schools

The Institute on 4 November 2014 published its opinion on the presence of the traditional 'Black Pete' persona during the feast of St Nicholas celebration at a school (Opinion 2014-131). The case was brought against the school by a mother, as she believed it exposed her children to 'a racist caricature' ('Black Pete' features dark skin and 'Afro hair', is the servant of the white St Nicholas, acts stupidly and makes language mistakes.)

The Institute's opinion is that a school has a duty to offer its pupils a discrimination-free environment. The Institute believes that the combination of characteristics concerned contributes to the stereotypical image that dark-coloured people are inferior and stupid. 'Black Pete' therefore has discriminatory aspects, which means that the school does not offer a discrimination-free environment during the feast of St Nicholas. Even though the feast and the 'Black Pete' persona are not intended to discriminate, the Institute finds that 'Black Pete' has a discriminatory effect. Yet the Institute's opinion still is that the school did not, in 2014, act contrary to its duty of care arising from the legislation concerning equal treatment, as the school's board finds itself torn between conflicting interests because the 'Black Pete' debate is still going strong. However, the school is to ensure that the school environment in 2015 is discrimination-free, also during the feast of St Nicholas. It is not necessary to abolish 'Pete', but the persona should be presented to the children at school in such a way that all negative stereotypes are removed.

The umbrella organisation of public schools, VOS/ABB, in 2014 issued the advice to have 'Black Pete' be differently coloured (not traditional black) to ensure a discrimination-free and respectful school environment.

Children of Central and Eastern European migrants

Some 41,000 children from Central and Eastern European countries are registered in the Dutch population register (approx. 24,000 from Poland, approx. 4,700 from Bulgaria, and approx. 4,100 from Romania). The exploratory study '[Polish, Bulgarian and Romanian children in the Netherlands](#)' (SCP, 2014) shows that the frequent travel of these migrants between their country of origin and the Netherlands, and their frequent change of address within the Netherlands, negatively impacts their school performance and well-being. Teenagers in particular lag behind in their education due to language problems and interruptions. A combination of frequently moving house, poverty, bad living conditions, broken families and parents working long hours has put them at risk of becoming uprooted and detached, which in turn can lead to problem behaviour and these children going off the rails.

One bottleneck identified in the exploratory study is the lack of means for children of Polish origin in primary education to overcome their educational disadvantage. Polish migrants to the Netherlands are often highly educated. As a result, the schools their children attend do not receive funding for additional support, though the teachers interviewed do believe this to be necessary.

The Institute advises the Committee to ask:

What measures will the Government take to ensure that children from Central and Eastern European countries can enjoy their right to education?

2.3. Housing (art. 5 e (iii))

Traveller sites

In its report to the CERD Committee, the Central Government states that it actively targets discrimination in the residential sphere. Both municipalities and the Central Government should provide more attention to their own roles in this connection.

In 2014, the Institute received the question whether the 'phase-out policy' with respect to traveller sites as pursued by the Municipality of Oss is discriminatory. The 'phase-out policy' entails the municipality not making vacated pitches in traveller sites available for renewed occupation. In the end, this leads to the traveller sites in the municipality disappearing, with the result that the children of travellers are unable to independently occupy a caravan. The Institute established that travellers, due to their culture, qualify as an ethnic group and that the ground 'race or ethnic origin' applies to the case. The Institute held that the phase-out policy attacks the core of traveller culture, as the living in caravans is an essential part of this culture. This means that the policy is discriminatory (Institute, opinion 2014-165 and opinion 2014-167). In a case concerning the Municipality of Vlaardingen's traveller site policy as well, the Institute held that the phase-out policy is discriminatory (Institute, opinion 2015-61).

The Institute advises the Committee to ask:

What measures does the Government implement to ensure that municipalities allow travellers to keep living in caravans?

2.4. Access to public places and/or services (art. 5 f)

Signals were received of the occurrence in the Netherlands of discrimination with respect to offering goods and services. This is evidenced by discrimination complaints filed with the Institute. Over the period of April 2010-2014, 130 of the opinions delivered by the Institute on the grounds of race, nationality and religion referred to discrimination with respect to offering goods and services. A number of companies refused to sell baby milk powder to customers, solely on the basis of their Asian appearance (Institute, opinion 2014-26 and opinion 2014-55). In connection with a milk powder scandal in China, the demand for Dutch baby milk powder surged in 2014 and 2015. Many shops limit the number of packets of milk powder individual customers can buy, and some shops refuse to sell packets to persons with an Asian appearance if they believe to recognise them as having previously bought powder.

Discrimination at the access to catering establishments (bars, clubs etc.) on the ground of race is still very persistent. From a meeting on discrimination at the access of catering establishments organised by the Institute and from various investigations conducted by, *inter alia*, ADSs across the country, it appears that doormen and security guards of catering establishments throughout the country still very regularly discriminate on the grounds of ethnic origin and colour. The Institute issued multiple opinions on the subject (including opinion 2014-22, 2014-76).

While the government took steps to have catering establishments tackle the problem themselves, this was insufficiently effective. A recent publication lists all measures by the administrative court ('bestuursrechtelijke maatregelen') available to municipalities in this connection. Its aim is to improve the possibilities for municipalities to enforce the ban on discrimination. The effect thereof is as yet unknown.

The Institute advises the Committee to ask:

When will the results of the measures available to municipalities to ensure improved enforcement of the ban on discrimination at the access of catering establishments be known?

3. Discrimination in the Caribbean Netherlands (art.6)

The CERD Committee has previously urged that it receive full information on the implementation of the Convention in the Caribbean part of the Netherlands. However, the Netherlands have thus far failed to report on its observance of the obligations arising from the Convention in this part of the country. The Institute does not have any information on observance of the CERD on Bonaire, Saba, and St. Eustachius, the public bodies comprising the Caribbean Netherlands.

The Institute advises the Committee to ask:

What steps will the Central Government take to guarantee observance of the CERD in the Caribbean Netherlands, and how will it monitor this compliance?

4. Combating prejudices and stereotypes (art. 7 CERD)

Youths

Youths are exposed to ethnic stereotyping both inside the school environment and outside of it, in social media, on the streets and in football stadiums. The Institute has repeatedly pointed out to the Government that awareness of discrimination and the mechanisms of stereotyping is to have a prominent place in primary, secondary and higher (professional) education. This is possible by embedding it in existing citizenship education or by including it in the educational core objectives as part of Human Rights Education. The reassessment of the educational curriculum presently carried out on the instructions of the Minister of Education, Culture and Science does not provide attention to Human Rights Education, a subject which is ideally suited to include addressal of discrimination and underlying stereotyping.

Professionals

Ethnic stereotypes unmistakably plays a part in the work of professionals, for instance in police work ('ethnic profiling') and in the sentences delivered on suspects with a migrant background by the courts, as was shown, *inter alia*, by scientific research conducted on the instructions of the Council for the Judiciary ('[Etnisch gerelateerde verschillen in de straftoemeting](#)' (H. Wermink et al., 2015)). According to involved parties, including top police officials, the initiatives aimed at effecting change in the empirically proven practice of ethnic profiling by the police already taken are insufficient. This is why the Government should not, in fostering awareness of discrimination and stereotypes, only invest in general

public awareness campaigns. It should make more targeted investments in the development of expertise by relevant professions like teachers, municipal officials, police officials and members of the judiciary. Such officials should be trained to become aware of the effects of stereotyping - both by themselves and by others - on their perception and their actions. This training has a preventive effect. Such training is provided by, *inter alia*, the Netherlands Institute for Human Rights (*Unbiased selection*). A number of municipalities have already provided their officials with such training courses.

The Institute advises the Committee to ask:

What does the Government do to combat stereotyping in the context of developing expertise among relevant professions like teachers, police officials and members of the judiciary?

V. Annex (Figures on discrimination 2010-2014 from the Institute)

Figures on discrimination in the Netherlands, April 2010- December 2014 (source: The Netherlands Institute of Human Rights).

Tables 1 and 2: 'complaints' (requests for an opinion of the Institute) submitted to and opinions delivered by the Institute, on the grounds of race, nationality and religion, and intersection of race and another ground.

Table 3: opinions on the grounds of religion, broken down per religion.

Table 4: opinions on the grounds of race, nationality and religion in the fields of Work and Offering Goods and/or Services, broken down into phases.

Table 1: Complaints on the grounds of race, nationality and or religion, April 2010 to December 2014.

	2010 (starting from April)	2011	2012	2013	2014	Total
Number of complaints on the ground of race *	47	71	83	73	77	351
Number of complaints on the ground of nationality	8	30	53	31	28	150
Number of complaints on the ground of religion	25	54	41	32	28	180
Number of complaints on two or three of the following grounds: race, nationality and religion	15	25	15	9	6	70
Total	95	180	192	145	139	751

* This includes only the cases on the ground of race (not in combination with nationality and religion); it is possible that it includes cases that combine race with other grounds (such as age and gender).

Table 2: Opinions on the grounds of race, nationality and or religion, April 2010 to December 2014

	2010 (starting from April)	2011	2012	2013	2014	Total
Number of opinions on the ground of race *	22	31	32	29	31	145
Number of opinions on the ground of nationality	3	5	12	14	11	45
Number of opinions on the ground of religion	13	19	17	19	18	86
Number of opinions on two or three of the following grounds: race, nationality and religion	10	11	4	3	4	32
Total	48	66	65	65	64	308

Table 3: Opinions on the ground of religion: religion of the complainant, April 2010 to December 2014

	Number of opinions on the ground of religion *
Christian	6
Muslim	61
Jewish	3
Hindu	0
Buddhist	0
No religion	3
Other religion	1
Unknown	12
Total	86

* This includes only the cases on the ground of religion (not in combination with nationality and religion); it is possible that it includes cases that combine religion with other grounds (such as age and gender).

Table 4: opinions on the grounds of race, nationality and religion in the fields of Work and Offering Goods and/or Services, broken down into phases.

		Number of opinions on the ground of race */**	Number of opinions on the ground of nationality	Number of opinions on the ground of religion	Number of opinions on two or three of the following grounds: race, nationality and religion	Total
Work	Recruitment & Selection	39	7	35	6	87
	Appointment	1	0	0	1	2
	Termination of employment relationship	10	1	7	3	21
	Working conditions	13	2	9	5	29
	Other or not further specified, including working conditions	25	1	7	6	39
Goods and services	One of the operative parts ('dicta') concerns goods and services; incl. advice on choice of education or profession	56	34	28	12	130
Other	Other or not further specified, e.g. freedom of profession & social protection	13	0	1	6	20

* This includes only the cases on the ground of race (not in combination with nationality and religion); it is possible that it includes cases that combine race with other grounds (such as age and gender).

** The figures for the fields do not add up to 145 (the number of opinions in this period on the ground of race): one opinion can cover multiple areas.